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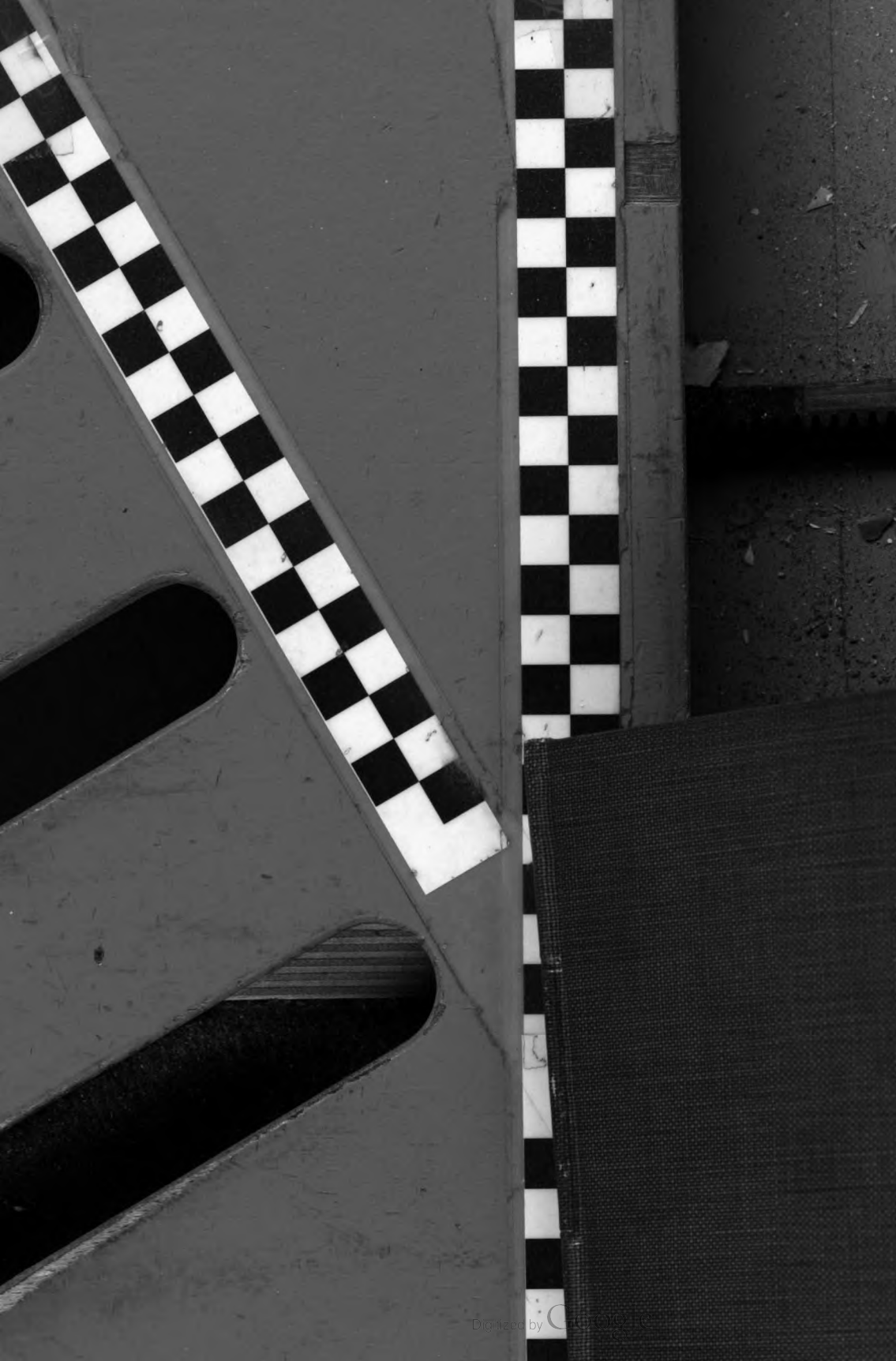


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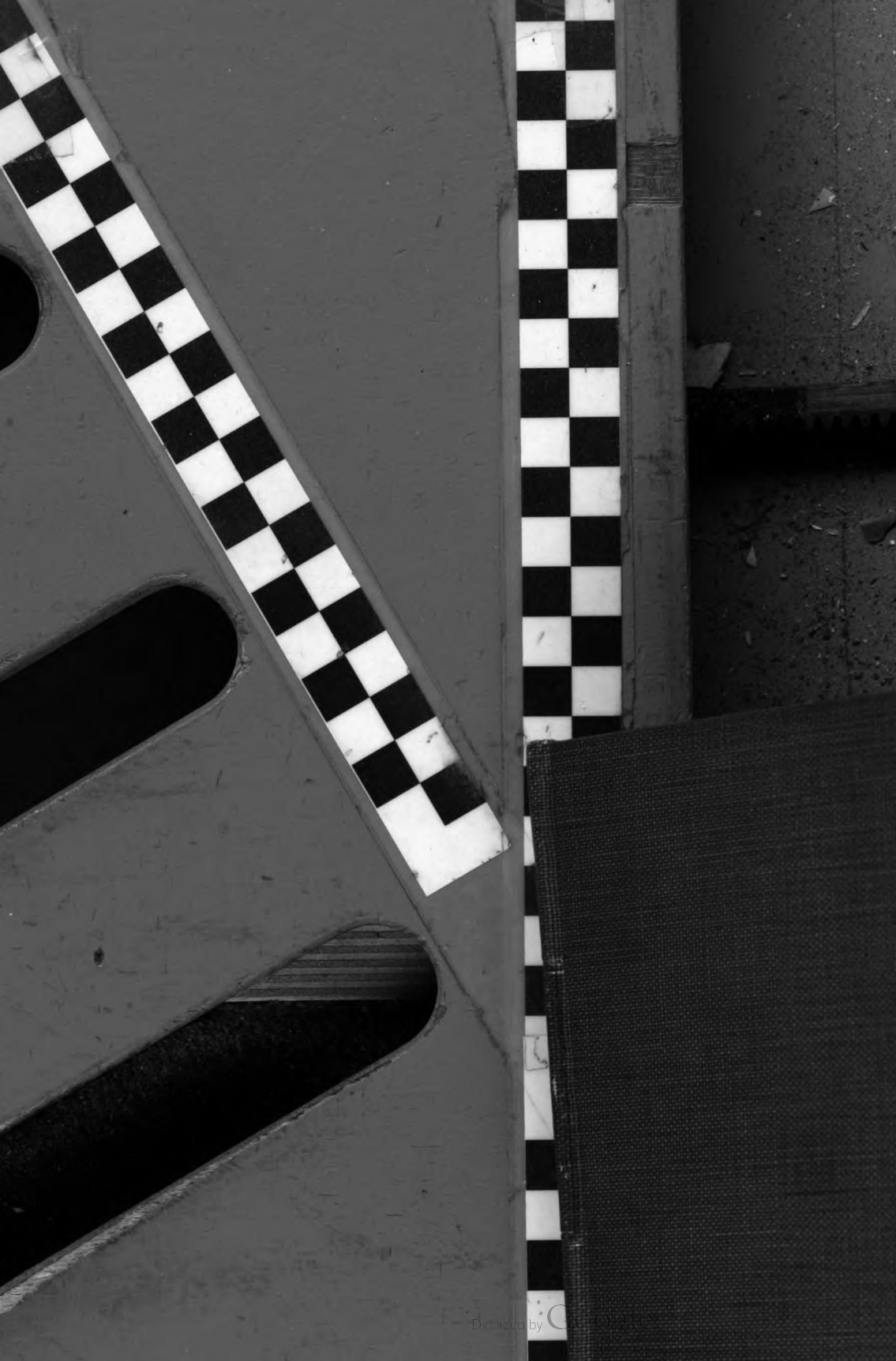
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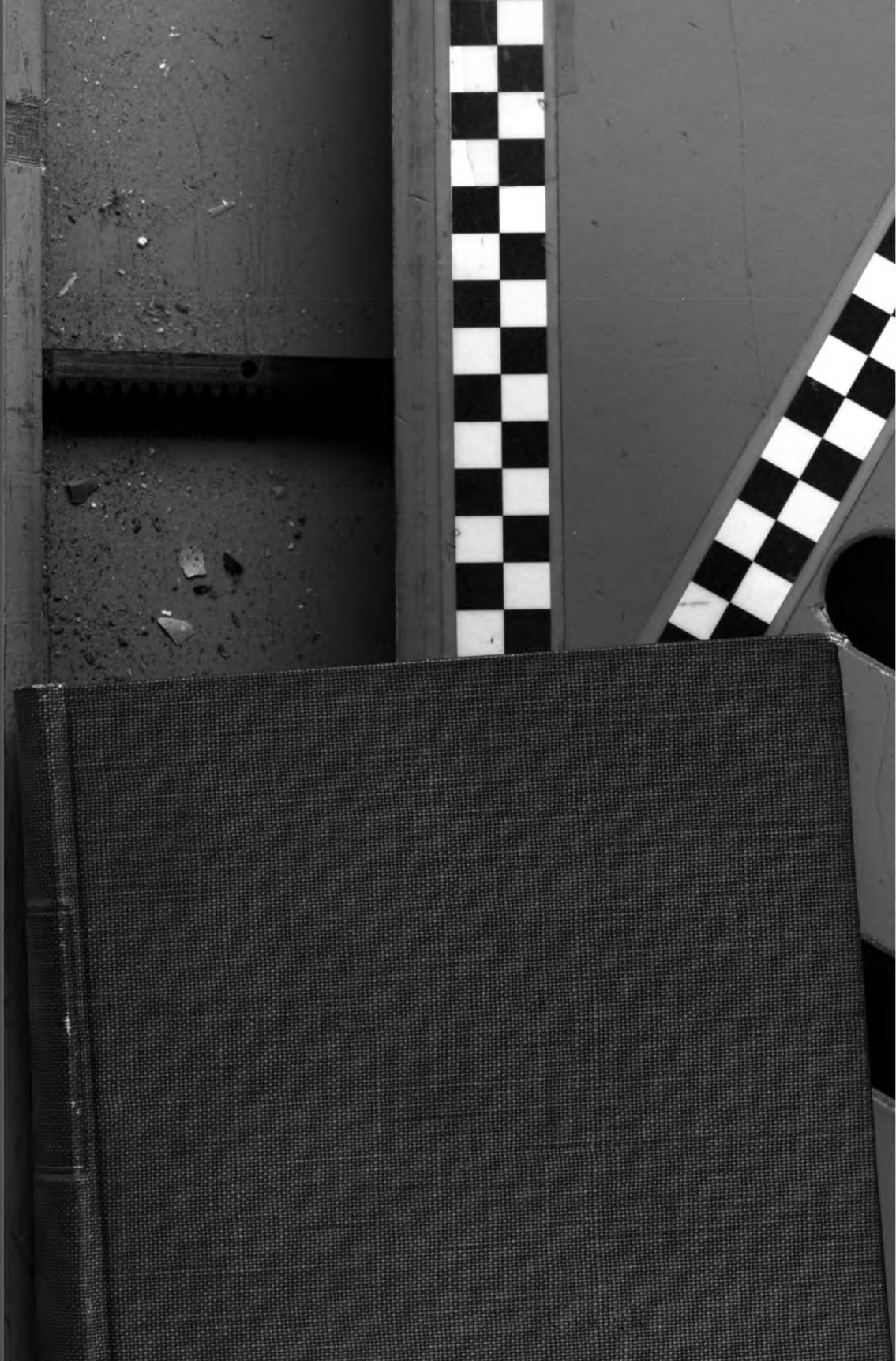
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1820-1897













THE LAWS OF TEXAS

1822-1897

Austin's Colonization Law and Contract; Mexican Constitution of 1824; Federal Colonization Law; Colonization Laws of Coahuila and Texas; Colonization Law of State of Tamaulipas; Fredonian Declaration of Independence; Laws and Decrees, with Constitution of Coahuila and Texas; San Felipe Convention; Journals of the Consultation; Proceedings of the General Council; Goliad Declaration of Independence; Journals of the Convention at Washington; Ordinances and Decrees of the Consultation; Declaration of Independence; Constitution of the Republic; Laws, General and Special, of the Republic; Annexation Resolution of the United States; Ratification of the same by Texas; Constitution of the United States; Constitutions of the State of Texas, with all the Laws, General and Special, passed thereunder, including Ordinances, Decrees, and Resolutions, with the Constitution of the Confederate States and the Reconstruction Acts of Congress.

COMPILED AND ARRANGED BY
H. P. N. GAMMEL
OF AUSTIN.

WITH AN INTRODUCTION BY C. W. RAINES.

VOLUME VIII.

AUSTIN:
THE GAMMEL BOOK COMPANY.
1898

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GENERAL LAWS

OF

THE STATE OF TEXAS

PASSED AT THE

2432

SESSION OF THE FOURTEENTH LEGISLATURE

BEGUN AND HELD

AT THE CITY OF AUSTIN

JANUARY 13, 1874

HOUSTON
1874

GENERAL LAWS OF TEXAS.

CHAPTER I.

An Act to prevent Sheriffs and other persons from paying over to G. W. Honey, or A. Bledsoe, or to any person for them, any money or public funds.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be unlawful for any sheriff of this State, or other person, to pay over to G. W. Honey, or A. Bledsoe, or to any person for them, any money or funds belonging to the State of Texas, or any county thereof. That any sheriff, or other person, violating the provisions of this act, shall be deemed and held guilty of a felony, and upon conviction by a court of competent jurisdiction of a violation of the provisions of the first section of this act shall be confined in the penitentiary for a term of two years.

[Sec. 2.] That this act be in force from and after its passage.

Approved January 16, 1874.

CHAPTER II.

An Act to prevent G. W. Honey and A. Bledsoe, and others, from paying out money or public funds.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall not be lawful for G. W. Honey and A. Bledsoe, or either of them, or any person for them, to

pay out or dispose of any money or other public funds belonging to the State of Texas, or any county thereof, to any person except to A. J. Dorn, the Treasurer of the State, or to S. H. Darden, the Comptroller. That any person who shall violate any of the provisions of this act shall be deemed and held guilty of a felony, and upon conviction shall be confined in the penitentiary for a term of two years.

[Sec. 2.] That this act be in force from its passage.

Approved January 16, 1874.

CHAPTER III.

An Act making an appropriation to defray the Contingent Expenses of the first session of the Fourteenth Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of twenty thousand dollars or so much thereof as may be necessary, is hereby appropriated out of any money in the treasury not otherwise appropriated, to pay the contingent expenses of the Fourteenth Legislature.

Sec. 2. That this act take effect from and after its passage.

Approved January 27, 1874.

CHAPTER IV.

An Act to regulate and define Mileage to be paid Members of the Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That the members of the Legislature shall be entitled to the sum of eight dollars for each twenty-five miles traveled to and from the seat of government, the distance to be computed by the nearest practicable route traveled from the county seat of the county of the residence of each Senator and Representative.

Sec. 2. The Comptroller shall draw his warrant on the Treasurer for the amount of mileage due Senators under this act, on the certificate of the President of the Senate, and signed by the Secretary of the Senate; and for the

amount due Representatives on the certificate of the Speaker of the House of Representatives, signed by the Clerk of the House.

Sec. 3. That concurrent resolution fixing a schedule of distances for mileage for Senators and Representatives, approved May 13, 1870, be, and the same is hereby repealed, and all laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 4. That this act take effect and be in force from and after its passage.

Approved January 31st, 1874.

CHAPTER V.

An Act making an appropriation for mileage and per diem pay of the members, and the per diem pay of the officers and employes of the Fourteenth Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of eighty thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any moneys in the Treasury not otherwise appropriated, for the mileage and per diem pay, of the members, officers and employees of the Fourteenth Legislature of the State of Texas.

Sec. 2. That the certificate of the Secretary of the Senate, approved by the President thereof, or the certificate of the Chief Clerk of the House, approved by the Speaker thereof, shall be sufficient evidence to the Comptroller, upon which he shall audit the claims and issue his warrants upon the Treasurer for the respective amounts.

Sec. 3. That the balance of moneys remaining in the Treasury heretofore appropriated for the per diem pay of the members, officers and employees of any preceding session of the Legislature, of the State of Texas, be and the same is hereby re-appropriated for the purposes specified in this act.

Sec. 4. That this act take effect from and after its passage.

Approved February 2d, 1874.

CHAPTER VI.

An Act to regulate the holding of the District Court of Freestone county, at its April Term.

Section 1. Be it enacted by the Legislature of the State of Texas, That the April term of the district court of Freestone county shall commence on the first Monday in April of each year, and shall continue in session for one week.

Sec. 2. All writs and process heretofore issued from said court, returnable to the same on the second Monday in April, shall be and are hereby made returnable to said term of court, commencing on the first Monday in April.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved February 1, 1874.

CHAPTER VII.

An Act to authorize the District Judges to inquire into the sufficiency of the sureties upon the bonds of Justices of the Peace, and to require new bonds in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That hereafter, upon complaint in writing of any person made to the judge of the district court, that the bond of any justice of the peace within his judicial district is insufficient, it shall be the duty of such judge, in term time, to cause to be cited such justice to appear before him within five days after service of such process, and inquire into the sufficiency of the sureties upon such bond; provided, that no justice of the peace shall be required to answer such citation in any other than the county in which he resides.

Sec. 2. That if it appear to the satisfaction of the judge, upon investigation, that such complaint is well founded, and that the sureties of such justice are insolvent or insufficient, he shall make an order requiring such justice to give a new bond within twenty days, and in default thereof, the judge shall make an order in writing declaring such office to be vacant, and cause the same to be immediately spread

upon the minutes of the district court of the county in which such justice resides.

Sec. 3. That in all cases where a new bond shall be required under this act, it shall be the duty of the judge to approve the bond, upon evidence made before him that the sureties offered are sufficient to secure the amount of the bond.

Sec. 4. That no person holding a county office in the county where such justice of the peace resides, or who may reside beyond the limits of said county, shall be taken or accepted as surety upon such bond.

Sec. 5. That this act take effect and be in force from and after its passage.

Approved February 9, 1874.

CHAPTER VIII.

An Act to compel the Sheriffs, or ex-Sheriffs, and the late Treasurers of the Boards of School Directors, or those claiming to have been such; and other officers in the several counties of this State, to make a complete and final settlement with the County Courts of said counties, and fix penalties for failure to comply therewith.

Section 1. Be it enacted by the Legislature of the State of Texas, That from and after the passage of this act, the several county courts of this State shall have authority, and it is hereby made their duty, to cause the late treasurer of the school boards, or those claiming to have been treasurers of such boards; and the sheriffs, or ex-sheriffs, or other officers of their respective counties, to make a complete and final settlement with said county courts, of all moneys which may have come into their hands from any source whatsoever, relating to school funds, within ten days after notice from the presiding justice of the county court.

Sec. 2. The county courts shall be authorized, and they are hereby directed, to require the late treasurers, or those claiming to have been treasurers of the boards of school directors, and the sheriffs, or ex-sheriffs, or other officers of their counties, to make a full exhibit of all accounts connected with moneys received or paid out relative to public free schools, and other purposes connected therewith, from whom received, on what account, to whom paid,

for what account and purpose, and to turn over all property, books, papers, and other material connected with the school affairs of said county to the county court, who shall immediately transfer the same to the county superintendent; provided, that the said county courts shall have full authority, and they are hereby directed, when necessary, to make a full investigation, on settlement of the accounts of treasurers, or those claiming to have been treasurers of boards of school directors, and sheriffs, or ex-sheriffs, or other officers of their counties, to summon any person or persons to appear before them, to testify in said case or cases, who may be supposed to have had any transactions with the treasurer, or person claiming to have been treasurer of any school board, or sheriff or ex-sheriff, or other officers of any county.

Sec. 3. That all moneys accruing from said settlement shall be paid to the county treasurer, who shall receipt for and disburse the same according to law; and he shall give such additional bond as the county court may require.

Sec. 4. That if, upon full investigation of the accounts of any treasurer, or person claiming to have been treasurer of school boards, sheriff, or ex-sheriff of any county, the accounts of either of them shall show any such funds in his hands, and if he shall upon demand, by order of said court, fail or refuse to pay over the same, he shall be held liable in an action in civil suit for the recovery of the amount found to be due, and shall be liable on his bond, if any; and for any failure or refusal on the part of any of the above named treasurers, sheriffs or ex-sheriffs to comply with any of the demands made upon them by the county courts of their respective counties, or make proper exhibits as required by this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof by a court of competent jurisdiction, shall be fined in a sum not less than one hundred nor more than five hundred dollars.

Sec. 5. That the county court or any member thereof, failing to comply with the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction, shall be fined in a sum of not less than one hundred nor more than five hundred dollars.

Sec. 6. That this act take effect and be in force from and after its passage.

Approved February 10, 1874.

CHAPTER IX.

An Act to amend "An Act prescribing the times of holding the District Courts in the several Judicial Districts in the State," approved August 10, 1870.

Section 1. Be it enacted by the Legislature of the State of Texas, That section thirteen of "An Act prescribing the times of holding the district courts in the several judicial districts in the State," approved August 10, 1870, be amended so as to read as follows: Sec. 13. That the district courts of the Twelfth Judicial District shall be holden at the times hereinafter specified, to-wit: in the county of Grayson on the fourth Mondays in January, May and September, and may continue in session four weeks; in the county of Cooke on the fourth Mondays in February, June and October, and may continue in session three weeks; in the county of Montague on the third Mondays in March, July and November, and may continue in session two weeks; in the county of Clay on the first Mondays in April, August and December, and may continue in session one week; in the county of Wise on the second Mondays in April, August and December, and may continue in session two weeks; in the county of Denton on the first Mondays in January, May and September, and may continue in session three weeks.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved February 10, 1874.

CHAPTER X.

An Act to amend an Act entitled "An Act prescribing the time of holding the District Courts in Kaufman and Rockwall counties, in the Tenth Judicial District," approved May 27th, 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That an act entitled "An Act prescribing the time of holding the district courts in Kaufman and Rockwall counties, in the tenth judicial district, approved May 27th, A. D. 1873, be so amended as to hereafter read as follows: That the district courts in Kaufman and Rock-

wall counties, in the tenth judicial district, shall be holden at the times hereinafter prescribed.

Sec. 2. In the county of Kaufman on the third Monday in September, January and May, and may continue in session three weeks. In the county of Rockwall on the second Monday in October, February and June, and may continue in session two weeks.

Sec. 3. That all process issued by or from said district courts, is hereby made returnable in conformity to the provisions of this act; and that all laws and parts of laws in conflict with this, be and the same are hereby repealed.

Sec. 4. That this act take effect and be in force from and after its passage.

Approved February 16, 1874.

CHAPTER XI.

An Act to amend the Twenty-ninth Section of an act entitled "An Act prescribing the times of holding the District Courts in the several Judicial Districts in the State," approved August 10th, 1870.

Section 1. Be it enacted by the Legislature of the State of Texas, That the twenty-ninth section of the above recited act shall be so amended as hereafter to read as follows, to-wit: "Sec. 29. That the district courts of the twenty-eighth judicial district, shall be holden at the times hereinafter specified, to-wit: in the county of Brazos on the third Monday in March, and on the fourth Monday in October, and may continue in session four weeks; and on the first Monday in August, and may continue in session one week. In the county of Burleson on the third Monday in April, and on the fourth Monday in November, and may continue in session four weeks; and on the second Monday in August, and may continue in session one week. In the county of Milam on the third Monday in May, and on the first Monday in January, and may continue in session until the business is disposed of; and on the third Monday in August, and may continue in session one week. That all process of said courts issued, returnable to the terms thereof, shall be returnable to the terms herein prescribed.

Sec. 2. That this act shall take effect and be in force from and after its passage.

Approved February 21, 1874.

CHAPTER XII.

An Act to organize the county of Kinney.

Whereas, Great confusion and dissention exists in the county of Kinney in regard to the management of the affairs of said county; and,

Whereas, Such a state of disorganization is prevalent in said county that it is the duty of the State to interpose in behalf of the good citizens of said county and of good government; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the county of Kinney be organized with the following limits: beginning at the southwest corner of Edwards county, and running due south with the western line of Uvalde county to the southwest corner of said county; thence due west to the Rio Grande river, forming the south line of the said county of Kinney, and running due west from the point of beginning to the San Pedro or Devil's river, and with said river to the Rio Grande; thence with the meanders of the Rio Grande to the south line of said county.

Sec. 2. That F. S. Fritter, Wm. H. Pulliam, J. J. Runnels, J. E. Therrell, and Joshua Cox, be and are hereby appointed commissioners to organize said county of Kinney, who shall, before entering upon the duties herein prescribed, take an oath before some justice of the peace or notary public of Maverick or Uvalde counties faithfully and impartially to discharge the same; provided, that whenever any one of said commissioners shall have qualified, he shall have authority to administer the oath to the others.

Sec. 3. That each of said commissioners is hereby appointed a registrar for said county of Kinney, and upon taking the oath and qualifying, as required by law for registrars, before any notary public or justice of the peace of Maverick or Uvalde counties, shall open registration books for the registration of voters at any place in the several pre-

cincts of said county of Kinney, and give notice thereof as required by the law regulating registration; and they are hereby authorized to administer all oaths and to do and perform all acts of registrars under the laws of this State; provided, that whenever any one of said commissioners shall have qualified as such registrar, he shall have the power and authority to administer the oath required as registrar to the other commissioners.

Sec. 4. That said commissioners, a majority of whom shall constitute a quorum for the transaction of business, shall, when one hundred and fifty voters of said county are registered under the provisions of this act, lay off said county into five justices' precincts, and shall order an election, giving twenty days' notice thereof, for one clerk of the district court, one sheriff, one treasurer, one surveyor, one hide and animal inspector, five justices of the peace, and five school directors, who shall hold their offices until the next general election. The commissioners shall appoint three inspectors of said election for each precinct, administer to them the oath of office, and said inspectors shall hold and conduct said election for said officers at such places in their respective precincts as may be designated by the commissioners, in all respects conforming to the law regulating elections, when the same do not conflict with this act; and the said inspectors shall make due return of said election within four days thereafter to the commissioners at the town of Brackett, which shall be the county seat of said county; and the said commissioners shall, on the fifth day after the election [Sundays excluded] open such returns, count the same, and give certificate of election to parties receiving the highest number of votes for each office; and the certificate of such commissioners shall be sufficient authority for any of such officers to enter upon the discharge of their duties, after they shall have qualified as required by law.

Sec. 5. Said commissioners shall assemble at Brackett, the county seat aforesaid, five days before the election. and they are hereby constituted a board of revision and correction; and when so assembled they shall perform the duties of such board in accordance with the laws regulating the same; provided, said board shall not be required to sit longer than two days, unless it shall be necessary.

Sec. 6. The said commissioners, or any of them, shall administer all oaths of office to the officers elected under

this act, and a majority shall approve the bonds of such officers, which said bonds shall be conditioned as the law directs, and the commissioners shall forward to the State Department a certified list of the officers elected under this act.

Sec. 7. That until said county of Kinney shall be organized as provided for in this act, the same shall be attached to the county of Uvalde for judicial purposes.

Sec. 8. That when said county shall be organized as herein required, courts shall be held therein as now provided by law.

Sec. 9. That all laws relating to the organization of the said county of Kinney, and the county seat thereof, heretofore passed, be and the same are hereby repealed.

Sec. 10. That the commissioners appointed by this act be and they are hereby invested with all the powers of justices of the peace, so far as arresting offenders and binding them over to the district court.

Sec. 11. That this act take effect and be in force from and after its passage.

Approved February 24, 1874.

CHAPTER XIII.

An Act to provide for holding District Court in Eastland County.

Section 1. Be it enacted by the Legislature of the State of Texas, That Eastland county shall be attached to the thirty-fourth judicial district.

Sec. 2. That the terms of the district court shall commence in said Eastland county on the second Mondays after the third Mondays in February, May and November, and may continue in session one week.

Sec. 3. That all laws and parts of laws in conflict herewith are hereby repealed, and that this act take effect from and after its passage.

Approved February 26, 1874.

CHAPTER XIV.

An Act to fix the Rate of Mileage and per diem of Witnesses in attendance on the Various Committees of the two Houses of the Fourteenth Legislature, or before the Senate in cases of Impeachment and Addresses.

Section 1. Be it enacted by the Legislature of the State of Texas, That witnesses before the various committees of the two houses, authorized to summon witnesses, or before the Senate in cases of impeachment and addresses, shall be entitled to receive three dollars per day for each day they may be actually in attendance on said committees, and mileage at the rate of ten cents per mile actually traveled in going to and returning from the capitol, by the most direct practical route.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved February 26, 1874.

CHAPTER XV.

An Act making an appropriation to pay the Mileage and per diem of Witnesses before the Various Committees of the two Houses, and before the Senate in cases of Impeachment, of the Fourteenth Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of fifteen thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any money in the treasury not otherwise appropriated, to pay the mileage and per diem of witnesses before the various committees of the two Houses, authorized to summon witnesses, and before the Senate in cases of impeachment.

Sec. 2. That the certificate of the chairman of the committee, attested by the clerk thereof, endorsed by the President and Secretary of the Senate, or by the Speaker and Chief Clerk of the House, shall be sufficient authority for the comptroller to audit such claims, and draw his warrant upon the treasurer for the respective amounts.

Sec. 3. That this act take effect from and after its passage.

Approved February 26, 1874.

CHAPTER XVI.

An Act to authorize incorporated cities to establish and manage free libraries.

Section 1. Be it enacted by the Legislature of the State of Texas, That the incorporated cities in this State be and are hereby authorized to establish free libraries in such city, to adopt rules and regulations for the proper management thereof, and to appropriate such part of their revenues for the management and increase thereof as such city may determine by the action of the municipal government of the city.

Sec. 2. That this act shall take effect and be in force from and after its passage.

Approved February 26, 1874.

CHAPTER XVII.

An Act to branch the Supreme Court of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Supreme Court shall hold its sessions once in every year, at the city of Austin, in the county of Travis; once in every year at the city of Galveston, in the county of Galveston, and once in every year at the city of Tyler, in the county of Smith.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved February 27, 1874.

CHAPTER XVIII.

An Act making an appropriation to pay Contingent Expenses of Department of State.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of twelve hundred and sixty-five dollars, or so much thereof as may be necessary, be and the same is hereby appropriated, out of any money in the

State treasury not otherwise appropriated, to pay contingent expenses of the Department of State, from the nineteenth day of January to August thirty-first, A. D. 1874.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 4, 1874.

CHAPTER XIX.

An Act to provide money to pay the Floating Indebtedness of the State.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor of the State is hereby authorized to have engraved the bonds of the State of Texas, of the denomination of one thousand dollars each, to the amount of one million dollars.

Sec. 2. That said bonds shall be payable thirty years from the first day of January, A. D. 1874, to bearer, and shall bear interest at the rate of seven per cent. per annum, payable semi-annually, to-wit: on the first day of January, and the first day of July of each year, and to have coupons attached for each installment of interest which may become due. The principal and interest of said bonds shall be payable in the city of New York, through such agent or agents as the Governor of the State may select.

Sec. 3. That said bonds shall be signed by the Governor and the Treasurer of the State of Texas, and countersigned and registered by the Comptroller with the seal of the State affixed thereto.

Sec. 4. The Governor may appoint an agent or agents in the city of New York, who shall sell the bonds provided for in this act, at such times and in such numbers as the Governor may direct, and shall cause the proceeds arising from such sales to be placed in the State Treasury; and he is hereby authorized to allow the said agent or agents such per centage on the bonds sold as he may find necessary to secure the sale of said bonds to the best advantage to the State; provided, nothing contained in this act shall prevent the Governor of the State himself from selling the bonds herein provided for.

Sec. 5. And it shall be the duty of the Governor, at any time when the Legislature shall be in session, to inform it

by message of the number of bonds sold, the amount realized therefrom, the name of the agent or agents through whom the same were sold, and the per centage allowed, and to whom sold.

Sec. 6. That the proceeds arising from the sale of said bonds shall be applied exclusively to the payment of warrants drawn by the Comptroller of Public Accounts upon the Treasurer of the State, dated since first day of January, A. D. 1866, and prior to the fifteenth day of January, A. D. 1874, and upon all warrants drawn since that date, based upon any indebtedness of the State which had accrued prior to that date. After the payment of the indebtedness aforesaid, the balance, if any be left in the treasury, shall belong to the general revenue of the State.

Sec. 7. That the Treasurer of the State is hereby authorized and required, on the first days of April and October of each year, to reserve and set apart, out of the money received in the treasury from taxes for the support of the State Government, an amount of money sufficient to pay the semi-annual interest, which may next become due, upon the bonds sold under the provisions of this act, and also to create a sinking fund of two per centum for the redemption of the principal of the bonds so sold.

Sec. 8. At the end of each year it shall be the duty of the Treasurer of the State to give thirty days' notice in some daily newspaper published in the city of New York, having a large circulation, and in one published at the capital of the State, that he will receive sealed proposals for the purchase, from the lowest bidder, of such an amount of the bonds provided for in this act as the sinking fund in the treasury shall enable him to purchase. The sealed proposals herein provided for shall be opened by the Treasurer, in the presence of the Governor and Comptroller, and the sinking fund shall be applied to the redemption of the bonds offered at the lowest rate. The bonds so purchased shall be burned at once, in the presence of the Governor, Comptroller and Treasurer of the State, who shall together sign a certificate certifying to the destruction of said bonds, in accordance with the requirements of this section, and setting forth the registered numbers and the value of each of the bonds so destroyed, and said certificate shall be filed in the office of the Comptroller of Public Accounts.

Sec. 9. The State of Texas hereby pledges her faith for the payment of the principal and interest of the bonds

authorized by this act to be issued, and in accordance with section twenty-three of article twelve of the Constitution of the State, all the provisions of section seven of this [act] shall forever be irrevocable, until the principal and interest of the bonds provided for in this act shall have been fully paid.

Sec. 10. That the sum of one thousand dollars, or so much of the same as may be necessary, is hereby appropriated, out of any moneys in the treasury not otherwise appropriated, to pay the expenses of engraving and printing the bonds provided for in this act; and the plate used in the printing of the bonds mentioned in this act shall be canceled or destroyed under the direction of the Governor, and a certificate to that effect shall be filed in the office of the Comptroller of Public Accounts.

Sec. 11. That this act shall take effect and be in force from and after its passage.

Approved March 4, 1874.

CHAPTER XX.

An Act to authorize the Governor to sell certain bonds of the State, and to adjust and settle the indebtedness of the State with Williams and Guion.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor of this State be and he is hereby authorized, in person or by agent appointed by him, to sell four hundred State bonds issued under "An Act providing for the issuance and sale of the bonds of the State for the purpose of meeting the appropriation made for maintaining ranging companies on the frontier," approved August 5, 1870, a portion of which said bonds are now hypothecated with Williams and Guion, in the city of New York; and also to sell the five hundred bonds of one thousand dollars each, issued by the State of Texas, under an act entitled "An act authorizing a loan to meet deficiencies in the revenue of the State, approved December 2, 1871, and now on deposit with the Farmers' Loan and Trust Company," in New York city. Said bonds shall be sold at such times, in such quantities, and at such prices, as the Governor may deem best for the interest of the State; and he may allow an agent such per cent on the amount he

may realize and account for on said bonds, as compensation for his services and expenses, as he may deem just and expedient, not to exceed two per cent.

Sec. 2. The preceeds arising from the sale of said bonds, less the amount necessary for the purpose hereinafter set forth, and the amount retained by the agent disposing of the same as just compensation, shall be forthwith turned over to the Treasurer of the State, accompanied by a statement (under oath, if said sale is made by an agent) of a list of the bonds sold, to whom sold, the date of sale, and at what price: and the Comptroller and Treasurer shall make the proper entries in the books of their departments. And the sum or sums so paid into the treasury, as aforesaid, shall be applied to the payment of all claims against the State arising upon appropriations made by law for the support of the State government, except claims and appropriations for common schools.

Sec. 3. The faith and credit of the State is hereby pledged for the payment of the principal and interest of the bonds to be sold under the provisions of this act, according to their tenor and effect, and the laws under which they have been respectively issued.

Sec. 4. The Governor of the State is hereby authorized to pay over to Williams and Guion, of the city and State of New York, out of the proceeds of the sale of the bonds hereinbefore provided for, on or before the first day of August, 1874, the amount of the money due said firm by the State of Texas, including interest thereon at the rate of twelve per cent. per annum. The Governor is further authorized to pay to said firm of Williams and Guion the actual amount of money advanced by them upon the forty-three (43) bonds of the State of Texas, commonly known and designated as "caveated bonds;" together with the interest on said amount; and the authority to sell the bonds, hereinbefore conferred, shall extend to, include, and authorize a sale of said "caveated bonds" in like manner as the others, any law to the contrary notwithstanding; provided, that before any payment is made to said Williams and Guion, they shall return to the Governor of the State of Texas all the bonds of said State deposited with them by the late Governor of Texas, or by his authority, as well as the forty-three (43) bonds known as "caveated bonds;" and provided further, that said Williams and Guion, immediately upon the passage of this act, shall

withdraw any and all suits now pending in any court having for their object the enforcement of the payment of any sums of money due them by the State of Texas.

Sec. 5. The Governor is hereby authorized to adjust, compromise, and settle any bona fide claim against the State of Texas for professional or other services heretofore rendered in and concerning the matters herein provided for, and to pay out of the funds arising from the sale of said bonds proper compensation found justly due to any authorized agent or employee of the State; provided, that he make full report of all his acts and doings under the provisions of this section to the Legislature.

Sec. 6. This act shall take effect and be in force from and after its passage, and all laws or parts of laws in conflict therewith be and the same are hereby repealed.

Approved March 4, 1874.

CHAPTER XXI.

An Act to define the Tenth Judicial District of the State of Texas, and to provide the times for the holding of the Courts therein, and to attach the county of Rockwall to the Fourteenth Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Tenth Judicial District of said State shall be composed of the following counties, to-wit: Kaufman, Van Zandt, Henderson, Anderson and Smith.

Sec. 2. Be it further enacted, That the District Court of the several counties of said District shall be begun and held as follows, to-wit: In the county of Kaufman on the first Monday in October, February and June, and may continue in session three weeks; in the county of Van Zandt on the fourth Mondays in October, February and June, and may continue in session two weeks; in the county of Henderson, on the second Mondays in November, March and July, and may continue in session two weeks; in the county of Anderson on the fourth Mondays in November, March and July, and may continue in session five weeks; in the county of Smith on the first Mondays in January, May and September, and may continue in session four weeks.

Sec. 3. Be it further enacted, That the county of Rock-

wall shall be attached to the Fourteenth Judicial District, and that the terms of the District Court in said county shall be begun and held as follows, to-wit: on the second Mondays in April, August and December, and may be held two weeks.

Sec. 4. That all writs and process, returnable to said courts shall be returnable to the terms of said courts as herein defined, and shall be as valid as if returned to the terms of said courts as they existed before the passage of this act.

Sec. 5. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed, and that this act take effect and be in force from and after its passage.

Approved March 5, 1874.

CHAPTER XXII.

An Act making an appropriation to buy postage-stamps for the office of Public Instruction.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of three hundred dollars, or so much thereof as may be necessary, be and the same is hereby appropriated to buy postage-stamps for the office of Superintendent of Public Instruction.

Sec. 2. That the Comptroller of Public Accounts be, and is hereby authorized and required to issue his warrant upon the Treasurer of the State in favor of the Superintendent of Public Instruction for said three hundred dollars.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved March 9, 1874.

CHAPTER XXIII.

An Act to fix the per diem and mileage of witnesses summoned in cases of Address or Impeachment against the Judge of the Twenty-second (22d), Twenty-fourth (24th), and Twenty-fifth (25th) Judicial Districts.

Section 1. Be it enacted by the Legislature of the State of Texas, That witnesses before the various committees of

the two houses authorized to summon witnesses, or before the Senate in cases of impeachment and address, and who are summoned in cases of impeachment or addresses against the judges of the Twenty-second (22d), Twenty-fourth (24th), and Twenty-fifth (25th) Judicial Districts, shall be entitled to receive three dollars (\$3) per day for each day they may be actually in attendance on said committees, and before the Senate, and mileage at the actual cost thereof in going to and returning from the capitol by the most direct practicable route, and that bills for same be approved by committee on Contingent Expenses of the Senate.

Sec. 2. That the act take effect and be in force from and after its passage.

Approved March 10, 1874.

CHAPTER XXIV.

An Act to provide for the Registration of Voters in all the Incorporated Towns and Cities within the State, not otherwise provided for by law.

Section 1. Be it enacted by the Legislature of the State of Texas, That all persons who are entitled, under the constitution and laws of this State, to the right of suffrage, shall be entitled to vote at their respective corporate elections.

Sec. 2. It shall be the duty of the corporate authorities of each town and city in this State, not otherwise provided for by law, to cause to be registered and to be entered in a book provided for that purpose, the name of every person within the corporate limits of their respective towns or cities who is entitled to vote under the constitution and laws of this State; and one day before each election to furnish to the presiding officers of the elections of each ward a full and complete list of every person entitled to vote in the respective wards; and each voter is required to vote in the ward of his residence; and no person shall be allowed to vote unless his name appears upon said registration list.

Sec. 3. Any person voting contrary to the provisions of this act, shall be punished as now provided by law.

Sec. 4. That this act take effect and be in force from and after its passage.

Approved March 12, 1874.

CHAPTER XXV.

An Act to Enlarge and Define the Boundaries of Wilson County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the boundary lines of Wilson county be and are hereby established as follows: Beginning on the west bank of the Cibolo creek at the mouth of the Martinez creek, thence on a straight line to the northeast corner of Atascosa county, thence south thirty-nine degrees east with Atascosa county line to the northwest corner of Karns county, as at this time established; thence north fifty-one degrees east to the southwest boundary line of Gonzales county; thence north thirty-nine degrees west with the line of Gonzales county to the southeast boundary line of Guadalupe county; thence with the said southeast line of Guadalupe county to the northeast line of the Austin Clement's survey; thence with the said northeast line of Clement's survey to the north corner of the same; thence on a direct line to the point where the northwest line of the Manuel Ximene's survey crosses Elm creek, thence with the said northwest line of the Ximene's survey to the Cibolo creek; thence up said Cibolo creek to the place of beginning.

Sec. 2. That all laws and parts of laws in conflict with this act are hereby repealed.

Sec. 3. That this act shall take effect and be in force from and after its passage.

Approved March 13, 1874.

CHAPTER XXVI.

An Act to create and provide for the organization of the County of Tom Green.

Section 1. Be it enacted by the Legislature of the State of Texas, That a new county, to be call Tom Green county, in honor of General Tom Green, is hereby established out of the following portion of Bexar Territory, to-wit: all that portion of Bexar Territory which lies north of a line running due west from the south-west corner of Concho county to the Pecos River.

Sec. 2. That J. L. Millspaugh, G. W. Deleny, W. S. Kelly, W. E. Veck and F. C. Taylor, are hereby appointed commissioners with full power to organize said county. Said commissioners, or a majority of them, shall as soon as practicable, meet in the town of Ben Ficklin, and proceed to divide said county into five precincts, and shall order an election for such county officers as are elective under the constitution, giving twenty days notice of said election by posting notices of said election in three prominent places in said county. Said election shall be held at the town of Ben Ficklin, and conducted in conformity with the laws regulating elections in this State; and said board of commissioners are hereby invested with all the powers conferred upon judges and commissioners of election by the laws of this State, and shall make such returns of said election as are required by the laws of the State.

Sec. 3. That at an election to be held at the same time and place, and to be governed by the same rules and regulations, as provided for in Section two of this act, the people of the said county of Tom Green shall determine, by ballot, what point shall be the county seat, and should any one place so voted for, receive a majority of all the votes cast at said election, the same shall be the county seat of said county; but should no place receive a majority of all the votes cast, then it shall be the duty of the aforesaid commissioners to hold another election; they shall give ten days notice of the same, at which said election, the two places receiving the largest number of votes at the previous election shall be voted for, and the place receiving the highest number of votes, shall be declared by said commissioners, the county seat until otherwise provided by law.

Sec. 4. That until the election and qualification of the officers herein mentioned, the business of the said county of Tom Green shall be transacted at the town of Ben Ficklin.

Sec. 5. That this act shall take effect from and after its passage.

Approved March 13, 1874.

CHAPTER XXVII.

An Act to authorize Justices of the Peace to employ Assistant Assessors in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever any justice of the peace may be physically unable to make the assessment in his precinct within the time prescribed by law; or whenever any justice of the peace, in order to make the assessment of taxes in person, would have to neglect the business of his court, it shall be lawful for such justice of the peace to employ an assistant assessor to make assessments of the property, and such assessment so made shall have the same force as though made by the justice of the peace.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 13, 1874.

CHAPTER XXVIII.

An Act to Provide for the Public Printing by Contract.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor, Secretary of State and Attorney General be and are hereby constituted a board to contract with any suitable person, or persons, or firms, to print the laws and journals of each House, and to do such other public printing as may be required by law; provided, that no contract shall be for a longer period than one year.

Sec. 2. That the rates to be allowed by the board shall not exceed the following rates, viz: For printing the laws of a general nature, including the index, one-fifth of a cent per page. For printing the special laws, including the index one-third of a cent per page. For printing five hundred copies of the journals of each House, one-third of a cent per page; and for printing any number over this amount which may be ordered, one-fourth of a cent per page. For printing five hundred copies of the Governor's Message, reports or other documents provided by law or

ordered by the Legislature, or either House thereof, one-third of a cent per page, and for any number of additional copies of the same, one-fourth of a cent per page. For printing two hundred copies of bills, resolutions or memorials, printed on pica type, the lines numbered on the margin, with space between the lines of the size of pica, on-foolscap paper, to be twenty ems wide and sixty-five in length, with four pages to the sheet, the sum of three dollars and fifty cents per page for the number of pages in one copy thereof. For printing executive proclamations, advertisements and like documents, seventy-five cents per square of ten lines for the first insertion, and thirty-seven and one-half cents per square for each subsequent insertion that may be ordered; and such publication shall not be inserted in any larger type than bourgeois, and each shall contain not less than two hundred ems; provided, that fractional parts of a square may be charged at like rates.

Sec. 3. That when proclamations, advertisements and like printing are authorized or required by law, to be executed for the executive or other departments of the government, in more newspapers than one, they shall be printed under like rules, and the same price shall be allowed and paid as is established in this act for like work done by any of the printers contracted with; provided, that proclamations amendments to the Constitution, and the like printing shall not be printed in more than two newspapers in each Congressional District, and shall not be inserted for a longer period than three months.

Sec. 4. That all accounts for work not otherwise provided for in this act shall be submitted to the board for their examination and approval; and the printing committees of the respective houses of the Legislature, as to all work ordered by said house, shall certify to the Comptroller of Public Accounts the quantity of each item of printing they may have so ordered, and shall also certify the number of copies of the same they have so ordered, and shall also certify the number of copies of the same they may have received, and the Comptroller shall thereupon authorize the payment of the account for said printing in accordance with the laws in force governing the price thereof.

Sec. 5. That rule and figure work may be paid for at double the price per page of other printing: provided, however, only the actual number of lines printed shall be counted in making the estimate of the number of pages

that shall be printed by the parties contracted with. For the use of the Comptroller, Land Office, Supreme Court, and such other departments as required them, all blanks, certificates and such other miscellaneous printing as may be required, which is not provided for in this act; and such printing shall be paid for at such rates as is usually charged for such work when done for individuals; and it shall likewise be the duty of the board to examine all accounts for printing done under the provisions of this section, and to allow only such rates as are equitable and just.

Sec. 6. That the prices in this act named shall be paid in United States currency.

Sec. 7. That at any time after a contract has been made and entered into with any person or firm to do the public printing, as herein provided, the Legislature reserves the right to abrogate said contract if not executed, and to alter or amend by enactment the rates to be paid for such printing.

Sec. 8. That there shall be printed five thousand copies of the laws of a general nature, and fifteen hundred copies of the special laws, including all acts for private relief, all acts incorporating towns and cities, all of a personal nature, and all acts incorporating private associations of every description, that may be passed at each session of the Legislature, and five hundred copies of the journals of each house of the Legislature, and five hundred copies of the laws of a general nature in the Spanish language, and one thousand copies in the German language. There shall be printed, under the supervision of the Secretary of State, eleven hundred copies of the annual reports of the Comptroller of Public Accounts, Treasurer, Commissioner of the General Land Office, Superintendent and Financial Agent of the Penitentiary, Superintendent of the Lunatic Asylum, of the asylums of the Blind and Deaf and Dumb, and the reports of all other officers who are required to report to the Governor or the Legislature, whose reports contain statistical information; three hundred copies of which shall be delivered by the Secretary of State to the two houses of the Legislature for their use, at as early a day as practicable after they are printed; three hundred copies of which shall be delivered to the Commissioner of the General Land Office, Comptroller and the superintendent of the several asylums, for the use of those institutions; and the remaining five hundred copies shall be stitched together by the

public printer as an appendix to the journals of the House of Representatives and delivered to the Secretary of State; provided, that this agreement shall not apply to the printing of the present Legislature. There shall be printed such number of copies of the messages of the Governor and other documents as the Legislature or either house may order; provided, however, that when the Governor's messages are printed, five hundred copies thereof shall be reserved by the printer aforesaid, which shall be attached to said appendix. Other matter than that enumerated may be attached to said appendix as the Legislature may order. The laws and journals and all reports and documents shall be printed on small pica type, to be forty-four lines long, exclusive of the folio, and twenty-seven ems wide, without side notes. The paper shall be white, of uniform color, and of a quality equal to the best upon which the laws of any session of the Legislature have at any time heretofore been printed; and all of said laws and journals, reports and other documents, shall be neatly folded, stitched and trimmed.

Sec. 9. That the Secretary of the Senate and Chief Clerk of the House of Representatives shall cause the journals of their respective houses to be furnished to the printer contracted with to publish their proceedings, from day to day, after they shall have been adopted, for the purpose of being printed; and when printed, the manuscript journals shall be returned and filed in the archives of the Legislature, and the said Secretary and Chief Clerk, respectively, shall furnish to the said printer a comprehensive index of the same, which shall be printed at the end of the respective journals and charged at like rates.

Sec. 10. That it shall be the duty of the Secretary of State to cause copies of all laws and resolutions to be furnished to the printer contracted with as early as possible after they severally shall have been approved or passed. He shall also furnish to the printer contracted with to print the laws, a comprehensive index of the said laws, which shall be printed in like type and style to the index of the general laws of the Ninth Legislature.

Sec. 11. That the whole number of laws and journals, reports of public officers and institutions, and other public documents authorized to be printed, shall be delivered at the office of the Secretary of State, except such printing as may be ordered by the two Houses of the Legislature, or either of them, for their use, which shall be delivered to

such persons as they, or either of them, may direct; provided, the same is delivered during the session of the Legislature.

Sec. 12. The laws and journals shall be delivered within sixty days after the last copy shall have been furnished to the printer contracted with to do the work. The reports of public officers, institutions, and other documents, shall be required to be delivered to the Governor by the respective officers making the same in sufficient time to be furnished to the printer one month before the meeting of the Legislature; and if so furnished to said printer, shall be delivered by him to the Secretary of State within the first week of said session; and if furnished less than one month before the meeting of the Legislature, or after the same shall be delivered by said printer contracted with to the Secretary of State within one month after they are so furnished. The Secretary of State shall certify that the laws thus published are true copies of the originals in his office, and also certify the date upon which the Legislature adjourned, which shall be appended to and printed at the end of each volume. He shall also superintend the printing of the same, and shall read and correct the proof; provided, however, that this act shall not dispense with the duty of the printer of furnishing some competent person or persons, also, to read and correct the proof; and provided further, that should the said laws be printed at any point away from the seat of government, the actual expenses of the Secretary of State while supervising the publication of the same shall be paid out of the appropriation for printing, and deducted from the amount due for the printing upon which this additional expense was incurred.

Sec. 13. That the person or persons employed by the board to do the public printing, or any part thereof, shall immediately enter into a bond, with two or more good sureties, in such sum as said board may deem adequate for the protection of the State, payable to the State of Texas, conditioned that he or they will faithfully perform all the stipulations of their contract, and that they will also do and perform everything required of them as public printers, under this act of the State of Texas, which bond shall be approved by said board, and filed in the office of the Secretary of State. On breach of said bond, the same may be put in suit upon the order of the Governor, which suit may be brought in the county in which the seat of government

may be located, and said bond shall not become void on the first recovery, but suit may be maintained thereon until the whole amount thereof be recovered.

Sec. 14. That no account for printing done under the provisions of this act shall be audited or approved by the Comptroller of the board, unless the same is verified by the affidavit of the person or persons employed to do said work, or some one in their employ having an oversight of the work, that said account is just and correct, and that said amount of work charged for has actually been performed, and that the prices charged in said account are in accordance with the stipulations of the contract entered into with the board.

Sec. 15. That "An act to provide for the public printing," approved February 17, 1873, and all laws and parts of laws contravening the provisions of this act, be and the same are hereby repealed, and this act take effect and be in force ten days after its passage.

Approved March 14, 1874.

CHAPTER XXIX.

An Act to amend section thirteen of "An Act providing for a Geological Survey of the State of Texas," approved August 13, 1870.

Section 1. Be it enacted by the Legislature of the State of Texas, That section thirteen (13) of "An act providing for a Geological Survey of the State of Texas," approved August 13, 1870, be and the same is hereby amended, so as to hereafter read as follows: Sec. 13. In case of the death, removal from office, or resignation of said State Geologist, before the completion of said survey, the Governor may appoint his successor; and the Governor shall have power to remove said State Geologist from office for incompetency, neglect of duty, dishonesty, or other reasonable cause; and in case of such removal of said officer, he shall deliver over to the Governor, or to his successor in office, all specimens, instruments, apparatus, maps, sections, diagrams and other property belonging to the State, and relating to the survey.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved March 16, 1874.

CHAPTER XXX.

An Act to amend Article Five Hundred and Eighty-seven of the "Code of Criminal Procedure.

Section 1. Be it enacted by the Legislature of the State of Texas, That article five hundred and eighty-seven, "Code of Criminal Procedure," be and the same is hereby amended to read as follows: Article 587. Where two or more defendants are jointly prosecuted, they may sever in the trial at the request of either; and if the defendant upon whose application the severance is allowed, shall file his affidavit stating that a severance is requested for the object of obtaining the evidence of one or more of the persons jointly indicted with him; that such evidence is material for his defense, and that he verily believes that there is no evidence against the person or persons whose evidence is desired, such person or persons shall be first tried.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 16, 1874.

CHAPTER XXXI.

An Act to validate Assessments made by Assistant Assessors

Section 1. Be it enacted by the Legislature of the State of Texas, That assessments heretofore made by assistant assessors, or persons appointed by the justices of the peace to make assessments, are hereby validated, and are and shall be of the same force and effect as if the same was done by the justice of the peace.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 16, 1874.

CHAPTER XXXII.

An Act for the Relief of the Purchasers of University Lands, and to Validate the Patents Heretofore Issued.

Whereas, Portions of the university lands were sold under an act approved August thirtieth, eighteen hundred

and fifty-six, and under an act approved November twelfth, eighteen hundred and sixty-six; and

Whereas, Full or partial payments have been made thereon, in accordance with the provisions of the acts aforesaid; and

Whereas, The Treasurer of the State has failed and refused to accept payment in part or in whole on the obligations executed for the purchase money of said lands, when tendered in conformity with the provisions of the aforesaid acts, under which said lands were sold; therefore

Section 1. Be it enacted by the Legislature of the State of Texas, That all sales of university lands made under the acts of eighteen hundred and fifty-six and eighteen hundred and sixty-six aforesaid, in which the terms of said acts have been complied with, are hereby validated, and the Commissioner of the General Land Office, on presentation of such evidence, shall be required to issue patents for the same.

Sec. 2. That the Treasurer of the State is hereby authorized and directed, within thirty (30) days after the passage of this act, to give notice by publication in the newspaper having the largest circulation in each of the counties where such lands are situated, for at least four (4) consecutive weeks, that payment may be made in accordance with the provisions of the above recited acts; provided, that all purchasers may have until the first day of March, eighteen hundred and seventy-five, to make first payment.

Sec. 3. That in cases where any portion or portions of said lands have been transferred by the original purchaser or purchasers to other parties, the assignee or assignees shall be subrogated to the rights of the original purchaser or purchasers; and the Commissioner of the General Land Office is hereby required to issue patents therefor to such purchaser or purchasers, upon presentation to said commissioner of evidence of transfer duly made, or upon the judgment of a court of competent jurisdiction; and in the trial of all such causes as are herein enumerated upon the said transfers, oral or written testimony may be used by any of said claimants. Either former or present owner or occupants may be used to establish title thereto.

Sec. 4. That all interests which have accrued upon obligations for the payment on said lands since the first day of January, eighteen hundred and sixty-nine, shall be

and the same is hereby abated, and the same shall not be estimated from the date last mentioned until the passage of this act.

Sec. 5. All laws and parts of laws in conflict with this act be and the same are hereby repealed.

Sec. 6. That this act shall take effect and be in force from and after its passage.

Approved March 17, 1874.

CHAPTER XXXIII.

An Act to provide for the immediate Apportionment of the School Fund, which should have been apportioned in December, A. D. 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Comptroller of Public Accounts shall be required immediately on the passage of this act, to report to the Superintendent of Public Instruction, making a complete and correct abstract of the scholastic population in the different counties of the State, and a complete exhibit of the school fund, of the moneys in the Treasury subject to apportionment, and the several sources from which they accrued, as was required to be made on the first of December, 1873, by Section eleven of "An Act to establish and maintain a system of Public Free Schools in the State of Texas," approved April 30th, 1873.

Sec. 2. The Superintendent of Public Instruction shall, on the first day of May, A. D. 1874, proceed to make the apportionment as required by Section nine of "An Act to establish and maintain a system of Public Free Schools in the State of Texas," approved April 30, 1873, from such data as he may have in his possession; provided, that the latest returns from any county of the scholastic population therein shall be observed in such apportionment.

Sec. 3. This act shall be in force and take effect from and after its passage.

Approved March 17th, 1874.

CHAPTER XXXIV.

An Act to fix the Venue in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That hereafter, any public or private corpora-

tion, including railroad companies, created by or under the laws of this State, or any other State or county, may be sued in any court in this State having jurisdiction of the subject matter, and in any county where the cause of action or a part thereof accrued, or in any county where such corporation has an agency, or representative, or in the county in which the principal office of such corporation is situated.

Sec. 2. That service of process on any of such corporations may be had by delivering a copy of such process, with the certified copy of plaintiff's petition, if any, to the President, Secretary, Treasurer, principal officers or the agent.

Sec. 3. This act shall not apply to cities, towns or counties.

Sec. 4. That this act shall take effect and be in force from and after its passage.

Approved March 21st, 1874.

CHAPTER XXXV.

An Act to regulate the testimony of witnesses in cases of Bribery.

Section 1. Be it enacted by the Legislature of the State of Texas, That hereafter in all cases of bribery, the examination or trial of which may be pending before the Legislature of this State, either House thereof, or any committee appointed by either, or in any of the courts of this State, or before the grand jury thereof, no person offered as a witness against the accused shall be excused from testifying as a witness in any such case to all he may know of the alleged bribery, and all persons in any way connected or associated therewith, on account of having been connected with it, or on the ground that his testimony might tend or lead to a prosecution against himself; but he shall be sworn and compelled to testify as other witnesses, fully to all he may know of said offense of bribery and all persons connected therewith; and if his testimony discloses the bribery, in whole or part, he shall, by reason of such disclosure, be exonerated from all prosecutions, fines, pains and punishments for or on account of any such offense which he may disclose or testify to as aforesaid.

Sec. 2. That the provisions of the above section shall apply to all offenses of bribery heretofore, as well as to those that may be hereafter committed.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved March 21st, 1874.

CHAPTER XXXVI.

An Act making an appropriation for the per diem pay of Members, and the per diem pay of the officers and employees of the Fourteenth Legislature of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of eighty thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any money in the treasury not otherwise appropriated, for the per diem pay of members and the per diem pay of officers and employees of the Fourteenth Legislature of the State of Texas.

Sec. 2. That the certificate of the Secretary of the Senate, approved by the President thereof, or the certificate of the Chief Clerk of the House, approved by the Speaker thereof, shall be sufficient evidence to the Comptroller, upon which he shall audit the claims and draw his warrants upon the Treasurer for the respective amounts, and that this act shall take effect from its passage.

Approved March 21st, 1874.

CHAPTER XXXVII.

An Act to encourage Stock Raising, and for the Protection of Stockraisers.

Section 1. Be it enacted by the Legislature of the State of Texas, That each organized County of this State, not hereinafter excepted, shall be created an inspector's district, for the inspection of hides and animals, and that an inspector of hides and animals shall be elected by the legal voters in such counties at the next general election, and every two years thereafter, unless otherwise provided

by law; that whenever a vacancy exists in the office of inspector of hides and animals, the sheriff and his deputies shall be ex-officio inspectors of hides and animals in their respective counties during such vacancy.

Sec. 2. Every person elected to the office of inspector of hides and animals, before entering upon the duties of his office, shall enter into a bond with two or more good and sufficient sureties, to be approved by the county court of the county constituting his district, which bond shall be in a sum to be fixed by said county court; which sum shall be not less than one thousand dollars nor more than ten thousand dollars, payable to said county, conditioned that he shall well and truly perform the duties of his office in accordance with the provisions of this act; and he shall also take and subscribe the oath of office prescribed by the Constitution, which shall be endorsed on or attached to said bond, together with the certificate of the officer administering the oath, which bond and oath shall be deposited and recorded in the office of the clerk of the district court of the county. The bond herein provided for shall not be void for want of form, or on the first recovery, but may be sued on, from time to time, in the name or names of any person or persons injured by a breach thereof, until the whole penalty shall have been recovered.

Sec. 3. Every inspector shall have power to appoint as many deputies as shall be necessary to perform the duties imposed on them by this act, and such deputies shall have the same power and authority to perform the duties of their office as their principal; and the inspectors shall require bond and security of their deputies for the faithful performance of their duties; and the said deputies shall, before entering upon their duties, take and subscribe the oath prescribed by the Constitution, which, together with the certificate of the officer administering the same, shall be endorsed upon the bonds.

Sec. 4. The appointment of each deputy shall be in writing, with the seal of the inspector impressed thereon, and shall, with their bonds and oath of office, be recorded by the clerk of the district court of the county constituting their district: and the inspectors shall be responsible, to any person or persons injured thereby, for the official acts of each of their deputies, and they shall have the same remedies against their deputies, and their securities, as any person can have against the inspectors and their securities.

Sec. 5. The county court of each county shall provide the necessary books and a seal of office, having upon it the words "Inspector of Hides and Animals, county, Texas," the blank to be filled with the name of the proper county, which seals shall be of the design selected by the Governor, and now in use by inspectors of hides and animals in this State. Each inspector and deputy inspector shall certify all his official acts with the seal herein provided for, and shall deliver his seal of office, and all books, papers or records, relating to his office, to his successor.

Sec. 6. It shall be the duty of the inspector, in person or by deputy, to faithfully examine and inspect all hides or animals known or reported to him as sold, or as leaving or going out of the county for sale or shipment, and all animals driven or sold in his district for slaughter, to packeries or butcheries; and the inspector shall keep a record, in a well bound book, in which he shall record a true and correct statement of the numbers, ages, marks and brands of all animals inspected by him, and the number, weight, mark and brand of all hides inspected by him, and whether the same are dry or green, and the name or names of the vendor or vendors, and of the purchaser or purchasers thereof; and he shall return a certified copy of all entries made in such record during each month to the clerk of the district court of the county on the last day of each month, which report shall be filed among the records of the county court. The book of record herein provided for shall at all times be open for the inspection of any person interested therein; provided, this act shall not be so construed as to include sheep, goats, swine, or hides of either, nor to involve the reinspection of salted hides in packeries, or other slaughter houses, taken from animals previously inspected and returned, as provided in this section.

Sec. 7. Each inspector shall prevent the sale of all unbranded hides or animals, or of hides or animals, upon which the marks or brands cannot be ascertained, and shall prevent the same from being taken or shipped out of the county, unless the same be identified by proof, or by exhibiting a bill of sale, duly signed by the person proved to be the owner of such hides or animals, and acknowledged before some officer authorized to authenticate instruments for record in this State.

Sec. 8. Every inspector shall have power to, and may

seize and condemn all unmarked or unbranded calves or yearlings, and all calves or yearlings freshly marked or branded, and on which the fresh marks or brands are unhealed, which are about to be slaughtered or driven or shipped out of the country, unless such animals are accompanied by the mothers thereof, or are identified by the presentation of a bill of sale from the person proved to be the owner thereof, signed by him or his legally authorized agent, and acknowledged before some officer authorized to authenticate instruments for record in this State.

Sec. 9. Every inspector shall have power to, and may seize and condemn all unbranded animals or hides, and animals or hides, upon which the mark or brand cannot be ascertained, which are about to be taken or shipped out of the county, or which animals are about to be slaughtered, unless such animals or hides are identified as provided in section eight of this act.

Sec. 10. Every person who shall buy or drive any animal or animals for sale or shipment out of any county in this State, or who shall buy or drive any animal or animals for slaughter, shall, at the time of purchasing, and before driving the same, procure a bill of sale from the owner or owners thereof, or from his or their legally authorized agent, which bill of sale shall be in writing, properly signed and acknowledged before some officer authorized to authenticate instruments for record in this State. Such bill of sale shall distinctly enumerate the number, kind and age of animals sold, together with all the marks and brands discernible on said animals, and shall also procure a certificate from the district clerk of said county that the marks and brands so described in said bill of sale are the marks and brands recorded in this office as the marks and brands of the party selling the same. Said animals shall, before leaving the county in which they have been gathered, be inspected by the inspector of such county or his deputy.

Sec. 11. Every person who shall purchase any hides of cattle shall, at the time of purchasing the same, obtain from the owner thereof, or from his legally authorized agent, a bill of sale in writing, certified to by the inspector, which bill of sale shall recite in full the marks and brands of each hide, the weight thereof, and whether the same is dry or green.

Sec. 12. Whenever an inspector shall have inspected

any animal or animals as herein provided, he shall, on the presentation of a bill of sale or power of attorney from the owner or owners of such animal or animals, or his or their agent, duly authorized in writing, which bill of sale, power of attorney or authority of agent shall be in writing, duly signed and acknowledged by the person executing the same, before some officer authorized to authenticate instruments for record in this State, and on payment to said inspector of the fees hereinafter provided for, deliver to the purchaser of the animals mentioned in such bill of sale or power of attorney, or his agent, a certificate setting forth that he has carefully examined and inspected such animal or animals, and that said purchaser has in all respects complied with the provisions of this act, which certificate shall not be complete until the same, and the bill of sale herein provided for, shall be recorded in the office of the clerk of the district court of the county, and be certified to by said clerk under his hand and seal. Such certificate shall then be delivered to the purchaser or purchasers, and shall protect him or them from the payment of inspection fees in any other district in the State for the animals therein described.

Sec. 13. Any person or persons driving cattle in his or their own mark and brand shall be entitled to the certificate of inspection hereinbefore provided for, on payment of the fees to the inspector hereinafter provided for, and on presentation to the inspector of the certificate of the clerk of the district court of the county where such mark and brand is recorded, to the effect that the mark and brand named therein is duly recorded in his office as the mark and brand of the person so driving such cattle.

Sec. 14. Any person or persons who shall drive any cattle to market beyond the limits of this State shall, before removing such cattle from the county where the same are gathered, place upon each and every animal so to be driven, a large and plain road brand, composed of any device he may choose, which brand shall be branded on the left side of the back behind the shoulder; and every person or persons using or causing to be used any road brand shall place the same on record, as in case of other brands, in the county from which the animals upon which said brand is to be placed are to be driven, and before their removal from such county.

Sec. 15. Any person intending to drive or ship any ani-

mal or animals to the Republic of Mexico, may ship the same from any point on the coast of Texas, or may drive or ship them across the Rio Grande river at any point where a custom house of the United States is located, and shall not drive or ship such animal or animals across the Rio Grande river at any point or points; and he shall cause all such animals to be inspected by the inspector of the district in which the point of shipment or place at which they are to be driven across said river is situated. Such inspection shall be made before shipment from the State or passage across the said river of the said animals.

Sec. 16. Any person may ship from any port of this State any hides or animals imported into this State from Mexico, and shall not be required to have the same inspected; provided, he has first obtained the certificate of the inspector or deputy inspector of the county into which the same were imported certifying the date of the importation thereof, the name of the importer, and of the owner, and of the person in charge of the same, the name of the place where the same were imported, together with the number of hides and animals so imported and a description of their marks and brands (if any there be), by which the same might be identified.

Sec. 17. Inspectors and their deputies shall be allowed to charge and collect the same fees for the services which they are authorized to perform by the terms of section sixteen of this act, as are allowed in other cases as hereinafter provided.

Sec. 18. Any person or persons having marks and brands recorded in the office of the clerk of the district court, may file with the inspector a list of his recorded marks and brands, certified by the said clerk, under his seal, to which certified list shall be attached the names of any person or persons whom the owner of said stock may wish to authorize to gather, drive, or otherwise handle his stock; and the filing of said list with the inspector shall be deemed sufficient authority to the person or persons named in such list to gather, drive or otherwise handle any animals of the marks and brands therein described.

Sec. 19. In all cases where the counter-branding of any cattle shall be deemed necessary or expedient, the person so counter-branding shall counter-brand the existing brand of the animal (by which the owner thereof is then known, or by which it is then claimed and owned), by branding

below the said brand its fac simile, that is, similar letters, characters or numbers, as the case may be; and he shall also place on said animal the brand of the then owner thereof; but no person shall change or alter the ear marks of any animal, but in counter-branding shall leave the ears bearing the same mark or marks as before counter-branding.

Sec. 20. No person owning and claiming stock, shall, in originally marking and branding animals, make use of more than one mark and brand, which shall be duly recorded, designated on what part of the animal said brand shall be placed; provided, that any person may own and possess animals in many marks and brands, the same having been by him lawfully acquired; and bills of sale in writing, duly authenticated from the previous owner or owners, or his or their legally constituted agent, shall be sufficient evidence of purchase; but the increase of such animals, or of any animals counter-branded by such person from other stocks of cattle owned by him, and all animals so counter-branded, shall be branded or counter-branded by one and the same brand; and, when marked by such person, shall be marked in one and the same mark.

Sec. 21. The clerk of the district court in each county shall transcribe the list of all recorded marks and brands in his county and revise the same. Such revised list shall be written in a well-bound book, kept for that purpose only, and shall be arranged as follows, viz: All brands of the letter class shall be placed in alphabetical order, following which shall be the numeral character and device brands, in the order of the date of their registration. Opposite each brand shall be stated the mark corresponding to said brand, the name of the owner of the brand, his place of residence; if the same be sold, the name of the person to whom sold, and his residence, the date of registration of the brand, and remarks or particulars relating thereto. Before each brand shall be placed its number, commencing at one for the first brand on the revised list, and the name of the owner of each brand shall be indexed, reference being had in such index to the list number of the brand or brands of such owner; and all new marks and brands placed of record shall be immediately recorded and indexed in said book, which shall at all times be open to the inspection of person interested therein.

Sec. 22. In all cases where application for the registration of any mark or brand shall be made, the clerk of the

district court shall receive and record the same, unless an examination of the recorded list of marks and brands shows that a similar mark and brand is already upon record in such county, in which event he shall refuse to register or give any certificate for the same; provided, such applicant shall have previously had such mark and brand recorded in some other county, and shall have a certificate from the clerk of the county where said brand had been recorded, and if said certificate shall state that said brand and mark had been recorded in said county at some time anterior to the time of the registration of the similar mark and brand in the county in which the said applicant may desire to have his brand recorded, in which event said brand shall be recorded, and the clerk shall make a minute setting forth said facts.

Sec. 23. Every inspector or deputy inspector provided for in this act shall be allowed to charge and collect from the person or persons for whom the inspection shall be made, the sum of ten cents for each and every animal or hide inspected by him, where the number inspected at any one time, and for one person, does not exceed one hundred, and the sum of eight cents for each animal or hide inspected by him where the number so inspected shall exceed one hundred, and less than two hundred, and six cents for any number over two hundred so inspected.

Sec. 24. Each clerk of the district court shall be allowed to collect the sum of fifteen cents for each hundred words in recording and certifying to every bill of sale provided for in this act, and the sum of seventy-five cents for recording each mark and brand, and certificate thereof, and such compensation for revising the list of registered marks and brands of cattle stocks in his county as the county court may allow.

Sec. 25. Wherever, in this act, the word "inspector" is used, it shall be deemed and taken to be "The Inspector of Hides and Animals;" and the words "deputy inspector" shall be taken and deemed to mean "Deputy Inspector of Hides and Animals;" and the words "county," "district," or "inspection district," shall be held to include each organized county in this State, together with any unorganized counties that may be attached for judicial purposes, to any such county.

Sec. 26. All marks and brands of cattle shall be recorded in the county or counties in which they usually

range; provided, that where cattle are gathered near the county line, the bills of sale of the same shall be recorded in both counties; and when any stock of cattle is sold, the fact shall be noted on the record, opposite or near the record of its mark and brand, giving the name of the vendor and vendee, and date of sale, and this shall be done as often as there be a sale. It is made the duty of the inspector to procure certified copies of the marks and brands of his county for himself and his deputies, and monthly to have added thereto the marks and brands that may be recorded.

Sec. 27. It is made the duty of the inspector and his deputies carefully and personally to inspect and examine each animal separately, so as to see and know himself the marks and brands, ages, sexes and number of cattle inspected, and shall not trust to the statement of any person, and shall also carefully examine the bills of sale and lists of brands and marks for the cattle inspected by him; and, if satisfied that the person claiming the cattle inspected has correct bills of sale or chain of transfer in writing from the recorded owner, or is the owner himself, in whole or part, of the mark and brand of each animal in his drove or herd which should be inspected, and that he has none in his said inspected herd or under his control to be carried with it, he will then, and not till then, make out a certificate, under his hand and seal, containing the number of cattle in each mark and brand, with their respective ages and sexes, thus inspected, and that they appear to be the property of the person for whom they were inspected, naming him or her, as appears by bills of sale from the recorded owner of the said marks and brands on the cattle inspected by him, or the owner of the brand and mark himself or herself, and has none other in his herd or under his control that should be inspected, and that he intends to drive or ship them to (naming the place in the State), for sale or slaughter, (or, if out of the State, he shall then name the place on the border of the State). And when he reaches said place of destination in this State, before he shall sell or slaughter, or ship any of the said cattle, he shall have them inspected there; and it is made the duty of that inspector or deputy to carefully inspect all the cattle belonging to the herd in the manner prescribed for the first inspection, and compare the certificate of the first inspector with the cattle; and if it appear that he has none in his herd

or under his control but those mentioned or described in the inspector's certificate, he will so certify in duplicate, and under his hand and seal, giving the date of the first certificate, by whom made, in what county, and the number of cattle found by him in each mark and brand, with ages and sexes. One of these certificates the inspector will immediately remit by mail, postage paid, to the first inspector, and the party will deposit the other with him in two months from the date of the original inspection, both to be kept by him in his office; and the inspector, at the point of destination, shall carefully examine and know, if possible, whether he has cattle under his control other than those originally inspected; and if he has, then he will take charge of the same and sell them as if under execution, or, if not voluntarily delivered to him, then he may sue for and sequester them without giving bond or security; and by order of the justice of the peace, or district judge of the court where the suit may be instituted, on application of said inspector or his successors, the cattle shall be sold in like manner, and the proceeds of sale, less one-fourth retained by him for compensation and costs of suit, to be deposited with the county treasurer for the owner of the cattle sold for one year; if not called for to vest in the county. He will also file with the treasurer a statement of the number in each mark and brand sold, and amount each sold for. If the owner of the inspected herd should desire to sell, slaughter or ship the cattle, or any of them, at any other than the place of destination named in the certificate of inspection, he may do so by first having his herd inspected and certificate made and returned in the manner prescribed at the point of destination, so far as applicable; and the duties of such inspector shall be the same as those prescribed for inspectors at places of destination.

Sec. 28. Every inspector shall have authority to authenticate bills of sale of animals, and give certificates of acknowledgment of the same, under his hand and seal, and shall be allowed to collect fifty cents for every acknowledgment so taken.

Sec. 29. Every inspector who shall give any certificate of inspection, without first having made the inspection in accordance with the twenty-seventh section of this act, or shall fraudulently issue a certificate of inspection of any hides or animals, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in any sum not less

than fifty dollars nor more than five hundred dollars, and in addition thereto shall be removed from his office by a decree of the court trying the same.

Sec. 30. No minor, under the age of twenty-one years, shall be permitted to brand cattle on the commons or prairie, in any brand claimed by himself, unless he is accompanied by his father, mother or guardian, or some agent duly appointed by his father, mother or guardian; and any minor violating the provisions of this section shall be deemed guilty of a misdemeanor; and, on conviction, shall be fined in any sum not less than ten nor more than fifty dollars.

Sec. 31. Any person who shall counter-brand any cattle without the consent of the owner, or his agent, shall be deemed guilty of a misdemeanor, and on conviction, shall be fined in any sum not less than ten dollars nor more than fifty dollars for each animal so counter-branded.

Sec. 32. Any person who shall alter the mark of any animal shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined in any sum not less than ten nor more than fifty dollars for each animal whose mark is so altered.

Sec. 33. Any person who shall drive any cattle across the Rio Grande river into Mexico, at any other point than where a United States custom house is established, or place of inspection by the United States custom house officers, or without first having the same inspected in accordance with the fifteenth section of this act, shall be deemed guilty of a felony, and, upon conviction, shall be confined in the penitentiary for any term not less than two nor more than five years.

Sec. 34. Any person who shall ship from any port of this State any hides of cattle imported from Mexico, without first having procured a certificate of importation and inspection, as provided in section sixteenth of this act, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in any sum not less than one dollar nor more than five dollars, for each hide so shipped.

Sec. 35. Any person who shall sell any hides of cattle without the same having been inspected, shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined in any sum not less than one dollar, nor more than five dollars for each hide so sold.

Sec. 36. Any person who shall drive any cattle out of

any county not hereinafter excepted, with the intention of driving the same beyond the limits of this State to a market, without first having road-branded the same in accordance with the fourteenth section of this act, shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined in any sum not less than twenty dollars nor more than one hundred dollars for each animal so driven.

Sec. 37. Any person who shall drive any cattle or horses out of any county without the written authority of the owner thereof, duly authenticated, as the law requires, and without first having the same duly inspected, shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined in any sum not less than twenty dollars nor more than one hundred dollars per head for each animal so driven.

Sec. 38. Any person who shall purchase any animals or hides of cattle, without obtaining a bill of sale from the owner or his agent, as required by section eleven of this act, shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined in any sum not less than twenty dollars nor more than one hundred dollars, for each animal or hide so purchased.

Sec. 39. Any person who shall, as the agent of another, sell any cattle without first having obtained a power of attorney, duly authenticated, shall be deemed guilty of a felony, and, on conviction, shall be confined in the penitentiary not less than one nor more than five years.

Sec. 40. Any person who shall, in originally branding and marking cattle, use more than [one] brand or mark, shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined in any sum not less than twenty-five nor more than one hundred dollars for each animal so branded or marked; and any person or persons who shall brand or mark any animal, except in an enclosure, shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined in any sum not less than ten nor more than fifty dollars for each animal so branded or marked.

Sec. 41. Any person who shall brand or mark any cattle, without first having recorded his mark or brand, shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined in any sum not less than twenty-five nor more than one hundred dollars for each animal so branded or marked; and any person who shall brand any animal by running or dotting on the brand, shall be deemed guilty of

a misdemeanor, and, on conviction before a court of competent jurisdiction, shall be fined in any sum not less than ten nor more than fifty dollars.

Sec. 42. No clerk shall record any brand unless the person having the same recorded shall designate the part of the animal upon which the same is to be placed, as required by section fifteen of this act; and any clerk violating this section shall be deemed guilty of a misdemeanor, and, on conviction thereof by a court of competent jurisdiction, shall be fined not less than ten nor more than fifty dollars.

Sec. 43. When the inspector has seized any hides or animals, as provided for in sections eight and nine, he shall report the fact to some judge of the district court, or justice of the peace; and it shall be the duty of said judge or justice to issue, or cause to be issued, a citation, addressed to "all whom it may concern," setting forth the seizure of said property, with a description of the same, commanding them to appear at a day named in said citation, to show cause why the said property should not be forfeited to the county wherein the same was seized, and sold for the benefit of said county. Said citation shall be directed to [the] sheriff or other officer of said county, who shall cause certified copies of the same to be posted in three public places in said county for a period of ten days before the day mentioned in said citation. Upon proof of the posting of said citation, as herein required, it shall be the duty of the judge, or justice of the peace issuing said citation, to proceed to condemn the property mentioned in said citation, unless satisfactory proof should be made of the ownership of said property, or other sufficient cause be shown why the same should not be condemned; and he shall order the same to be sold by the inspector at public auction to the highest bidder. The inspector shall be entitled to retain one-fourth of the net proceeds of such sale, after deducting therefrom all expenses connected therewith, and he shall immediately pay the remaining three-fourths thereof into the county treasury; and all sums so paid in shall be placed to the credit of the general fund of such county.

Sec. 44. That the operations of this act be suspended in the following counties, until otherwise provided by law, to-wit: Anderson, Angelina, Bowie, Brazos, Burleson, Cass, Chambers, Cherokee, Collin, Delta, Fannin, Freestone, Fort Bend, Gregg, Grimes, Hardin, Harrison, Hunt, Hous-

ton, Henderson, Jasper, Jefferson, Kaufman, Liberty, Leon, Lamar, Marion, Madison, Newton, Nacogdoches, Orange, Panola, Polk, Red River, Rockwall, Rains, Rusk, San Augustine, Shelby, Smith, Sabine, San Jacinto, Titus, Tyler, Trinity, Upshur, Van Zandt, Waller, Washington, Wharton, Walker and Wood.

Sec. 45. That all laws and parts of laws conflicting with the provisions of this act, or any of them, be and the same are hereby repealed.

Sec. 46. This act shall take effect and be in force from and after its passage.

Approved March 23, 1874.

CHAPTER XXXVIII.

An Act making appropriation to pay costs due Sheriffs, Clerks and Attorneys in felony cases, in District Courts, for 1873, and previous years; to pay the fees of Justices of the Peace and other Peace Officers in criminal prosecutions for 1872, and previous years; and to pay Justices of the Peace for assessing the taxes for 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That there be and is hereby appropriated out of any moneys in the treasury not otherwise appropriated, to pay costs due sheriffs, clerks and attorneys in felony cases, in district courts for 1873, and previous years, the sum of fifty thousand dollars, or so much thereof as may be necessary; to pay the fees of justices of the peace and other peace officers in criminal prosecutions for 1872 and previous years, the sum of thirty thousand dollars, or so much thereof as may be necessary; and to pay justices of the peace for assessing the taxes for 1873, the sum of seventy-five thousand dollars, or so much thereof as may be necessary; all of said payments to be made in accordance with the laws regulating the same; provided, that all claims for services rendered prior to January 15, 1874, shall be paid out of money arising from the sale of bonds as provided by an act entitled "An Act to authorize the Governor to sell certain bonds of the State to settle the indebtedness of the State with Williams & Guion," approved March 4, 1874.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 27, 1874.

CHAPTER XXXIX.

An Act to prevent speculations by officers, or ex-officers, and agents in county, city, and town contracts and liabilities.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be unlawful for any sheriff, deputy sheriff, county treasurer, or ex-sheriff, or ex-county treasurers, until they shall have made final settlement with their respective counties, or any other officer of any county of this State, or any city or town therein, to contract, directly or indirectly, or in any way to become interested in any contract for any draft or order on the treasurer of said county, city or town, jury certificate or any other kind of debt, claim or liability, for which said county, city or town may or can, in any event, be made liable. And any officer, or ex-officer, until he shall have made final settlement with his county, who may violate this section, shall be [deemed] guilty of a misdemeanor, and, on conviction thereof by indictment or information in any court having jurisdiction thereof, be fined in a sum not less than ten, nor more than twenty times the amount of the order, draft, jury certificate, debt, claim or liability contracted for, and removed from office by the court that may try the cause, for which all suitable orders shall be made by the said court.

Sec. 2. It shall be unlawful for any of the officers or agents named in section one of this act, to become interested in any bid, proposal or contract made by, to or with any county of this State, city, or town therein, through its agents or otherwise to construct, improve or do any work on any bridge, road, house, street, alley; let out or have done any sort of work, for or on account of any such county, city or town, or in the purchase or sale of any property or thing made for or on account of such county, city or town, or to contract for or receive any money, property or thing, or representative of either emolument or advantage in consideration of such bid, proposal or contract, purchase or sale. And any person thus offending shall, on conviction thereof, by indictment or information in any court having jurisdiction thereof, be fined in a sum not less than fifty, nor more than five hundred dollars, and removed from office in the same manner as that prescribed in the first section of this act.

Sec. 3. That this act take effect and be in force in twenty days after its passage.

Approved March 30, 1874.

CHAPTER XL.

An Act fixing the time for holding the District Courts in the Twenty-second Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas, That the districts courts of the Twenty-second Judicial District shall be holden at the times hereinafter specified, to-wit: In the county of Caldwell on the first Monday in January, the second Monday in April, and the first Monday in September, and may continue in session three weeks. In the county of Gonzales on the first Mondays in February, May and October, and may continue in session four weeks. In the county of Guadalupe on the first Mondays in March, July and December, and may continue in session four weeks.

Sec. 2. That all process issued by or from said district courts is hereby made returnable in conformity to the provisions of this act, and that all laws and parts of laws in conflict with this act be and the same are hereby repealed.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved April 2nd, 1874.

CHAPTER XLI.

An Act to make an appropriation to complete the buildings of the "Agricultural and Mechanical College of Texas."

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of forty thousand dollars be and the same is hereby appropriated, out of any money in the State treasury not otherwise appropriated, for the purpose of completing the buildings of the "Agricultural and Mechanical College of Texas."

Sec. 2. The requisition of the commissioners of the college shall be sufficient authority to authorize the Comp-

troller to draw his warrants on the Treasurer for the amount of the appropriation made by first section of this act.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved April 2, 1874.

CHAPTER XLII.

An Act to regulate Proceedings in the Supreme Court.

Section 1. Be it enacted by the Legislature of the State of Texas, That the present term of the Supreme Court at Austin shall continue until the last day of July next, unless the business before it shall sooner be disposed of; and all appeals and writs of error which, by the laws in force at the time this act takes effect, would be returnable to the present term at Austin as limited by this act, shall be returnable to said term at Austin.

Sec. 2. The said court shall make a new assignment of the time for hearing the causes which have been or may be returned to said court at its present term, preserving as nearly as practicable the order of the assignment previously made for this term; and notice of such new assignment shall be published in the newspapers printed in the city of Austin for at least two weeks before the call of the docket shall begin under such new assignment.

Sec. 3. From and after the first day of August, A. D. 1874, the Supreme Court shall hold its terms as follows, viz: A term of said court shall be held at the town of Tyler, in Smith county, which shall begin on the first Monday in October of each year, and may continue until the last day of December thereafter, unless the business before it shall sooner be disposed of.

A term of said court shall be held at the city of Galveston, in Galveston county, which shall begin on the first Monday in January of each year, and may continue until the last day of March thereafter, unless the business before it is sooner disposed of.

A term of said court shall be held at the city of Austin, in Travis county, which shall begin on the first Monday in April of each year, and may continue until the last day of June thereafter, unless the business before it is sooner disposed of.

Sec. 4. All appeals and writs of error to the Supreme Court, which by the laws in force at the time this act takes effect, would not be returnable to the present term at Austin as limited by this act, shall hereafter be returnable as follows, viz: Appeals and writs of error from the counties of Anderson, Bowie, Cass, Cherokee, Delta, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Marion, Nacogdoches, Panola, Raines, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood shall be returnable to the term of said court held at Tyler.

Appeals and writs of error from the counties of Aransas, Angelina, Austin, Bee, Brazoria, Calhoun, Cameron, Chambers, Colorado, De Witt, Fayette, Fort Bend, Freestone, Galveston, Goliad, Gonzales, Grimes, Harden, Harris, Hidalgo, Houston, Jackson, Jasper, Jefferson, Lavaca, Leon, Liberty, Madison, Matagorda, Montgomery, Newton, Nueces, Orange, Polk, Refugio, San Jacinto, San Patricio, Starr, Trinity, Tyler, Victoria, Walker, Waller, Webb, Wharton, and Zapata shall be returnable to the term of said court held at Galveston.

Appeals and writs of error from the counties of Atascosa, Bandera, Bastrop, Bell, Bexar, Blanco, Bosque, Brazos, Brown, Burleson, Burnett, Caldwell, Clay, Collin, Comal, Comanche, Cooke, Coryell, Dallas, Denton, Ellis, El Paso, Erath, Falls, Fannin, Frio, Gillespie, Grayson, Guadalupe, Hamilton, Hays, Hill, Hood, Jack, Johnson, Kinney, Kendall, Kerr, Karnes, Lampasas, Lamar, Llano, Limestone, Live Oak, McLennan, McCulloch, Mason, Maverick, Medina, Menard, Milam, Montague, Navarro, Palo Pinto, Parker, Presidio, Robertson, San Saba, Tarrant, Travis, Uvalde, Washington, Williamson, Wilson and Wise shall be returnable to the term of said court held at Austin.

Sec. 5. The Supreme Court may transfer causes from the term of either place to the term of any other place upon the consent in writing of the parties, or their counsel, filed with the clerk, and attached to the transcript of the record; and the parties to any cause, or their counsel, may, on filing a written agreement for that purpose, with the clerk of the district court, direct the transcript of the record in any appeal or writ of error to the Supreme Court with a certified copy of such agreement, to be returned for hearing and judgment to either of the places where the terms of said court are held.

Sec. 6. In appeals to the Supreme Court in criminal cases, the defendant may cause the transcript of the record to be filed for hearing and judgment at any term of the Supreme Court, held before the term to which such case would otherwise be returnable by law, and if such appeal be not decided during the term at which it is filed, the court shall transfer it to the next term of the court thereafter to be held.

Sec. 7. When a new county shall be created by this or any future Legislature, appeals and writs of error therefrom shall be returnable to the term of the Supreme Court, to which they are returnable, from the county or counties out of which such new county was formed.

Sec. 8. All causes returnable to the present term of said court at Austin, which would, after the close of said term, be returnable to some other place than Austin, and which have not been disposed of during the said present term, shall, after the close thereof, be transferred by the clerk to the place where said causes would be so returnable, unless the parties to such causes, or their counsel, shall file with the clerk of said court at Austin a written agreement that they shall remain for trial there.

Sec. 9. The judgments rendered at such term of said court, shall be final at the end thereof; and the clerk shall issue the mandate thereon immediately after the close of the term; but a mandate may issue on any judgment before the term has closed, by an order on the minutes of the court, upon good cause shown therefor, on a written application supported by proof satisfactory to the court; and such order shall be subject to revision or revocation, at any time before the close of the term at which it was made.

Sec. 10. The court may take any cause under advisement from one term of the court to another term; and when the same shall be decided, may send the judgment and opinion thereon to the clerk of said court at the place from which such cause was taken, who shall enter such judgment in vacation as of the term from which the cause was so taken.

Sec. 11. The fifth section of "An Act concerning the proceedings in the Supreme Court," approved February 11, 1850, shall, on and after the first day of August, 1874, read as follows, viz: "It shall be the duty of the appellant or plaintiff in error to file a transcript of the record with the clerk of the Supreme Court at the place where

such appeal or writ of error is returnable, on or before the first day of the term, to which the same is so returnable, that is held next succeeding the term when the appeal was perfected, or the citation for writ of error was served, or on or before the first day in such term designated for the trial of causes from the county in which such appeal or writ of error was taken; provided, however, that if such appeal was perfected or such citation in error was served less than twenty days before the said first day of the term next succeeding the taking thereof, or less than twenty days before the first day of the term in said term designated for the trial of causes brought from the county in which such appeal or writ of error was taken, then such transcript shall be filed at the next succeeding term thereafter in the same manner; and provided, also, that where a party is unable to file such transcript in the time limited by this section, from any unavoidable cause, the court shall, upon satisfactory proof thereof, permit such transcript to be filed at a later period."

Sec. 12. The Clerk of the Supreme Court shall, with the approval of the court, appoint one deputy at Tyler and one at Galveston, who shall reside and perform the duties of said office at the places for which they may be respectively appointed. Said appointments shall be entered upon the minutes of the court, and said deputies shall be liable to removal by the court for the causes for which the clerk can be removed. Each of said deputies shall be the librarian of the court of the place for which he may be appointed, and shall receive for his services as librarian a salary at the rate of two hundred dollars per annum.

Sec. 13. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed, and this act shall take effect and be in force from and after its passage.

Approved April 2, 1874.

CHAPTER XLIII.

An Act to regulate the collection of accounts.

Section 1. Be it enacted by the Legislature of the State of Texas, That an account on which suit has been or here-

after may be brought in any of the courts of this State, supported by the affidavit of the plaintiff, his agent or attorney, that the account is just and correct, taken before a judge or clerk of a court of record, having a seal, or before a notary public, shall be prima facie evidence against the party sought to be charged; provided, however, that the party thus sought to be charged shall have the right to rebut such prima facie evidence, by denying under oath the justice of such account, or any part thereof, setting forth in his affidavit the items and particulars which are unjust, which affidavit shall be filed in due order of pleadings, as is required in filing a plea of non est factum.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved April 2, 1874.

CHAPTER XLIV.

An Act to regulate the right of suffrage in the incorporated towns and cities of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That wherever it is or may have been provided in the act or acts incorporating any town or city in this State, that persons residing therein shall not vote at elections for officers of said towns or cities, without first having paid all taxes due by them to said cities or towns, it shall be lawful for the councils or boards of aldermen of said cities or towns to alter, amend, or abolish said restrictions upon the right of suffrage, by ordinance duly enacted at any regular or called meeting of said councils or boards.

Sec. 2. That this act shall take effect and be in force from and after its passage.

Approved April 3, 1874.

CHAPTER XLV.

An Act to further regulate proceedings in the Supreme Court.

Section 1. Be it enacted by the Legislature of the State of Texas, That all transcripts of causes that were returna-

ble to the present term of the Supreme Court, and which were not filed in time as required by law under the assignments of districts made by the late Supreme Court, may be filed and the causes docketed if filed in time, as required by law under any new assignment of districts made or to be made by the present Supreme Court for the present term, and writs of error returnable to the present term of the Supreme Court, if perfected as required by law, under the assignment before mentioned, made or to be made by the present Supreme Court, shall be deemed as valid as if they had been perfected under the assignment made by the late Supreme Court.

Sec. 2. That this act shall take effect and be in force from and after its passage.

Approved April 3, 1874.

CHAPTER XLVI.

An Act to amend the fourth section of an Act entitled "An Act to amend and supplemental to an Act to provide for the incorporation of Towns and Cities," approved May 26, 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That section four of an act entitled "An Act to amend and supplemental to an Act to provide for the incorporation of towns and cities," approved May 26, 1873, be and the same is hereby amended so as to read as follows: Sec. 4. That whereas, when the act of January 27, 1858, to which this is supplemental was enacted, the elective franchise was conferred upon only a portion of the male population over twenty-one years of age, it is hereby distinctly declared that this right under the intent and meaning of this act pertains to all legal voters of the State of Texas, under the Constitution of the State, without distinction of race, color, or previous condition; provided, such voters shall have resided within the proposed limits for at least sixty days next preceding an election.

Approved April 4, 1874.

CHAPTER XLVII.

An Act to punish the taking and destruction of certain products of the farm, garden, vineyard, and orchards of this State.

Section 1. Be it enacted by the Legislature of the State of Texas, That any person or persons who shall hereafter take or carry away from the farm, orchard, vineyard, or garden of another, any fruit, melons, or garden vegetables without the consent of the owner thereof, or shall willfully and without the consent of such owner, destroy any of such products, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction, shall be fined in any sum not to exceed one hundred dollars.

Sec. 2. That all laws and parts of laws in conflict with this act, be and are hereby repealed; and that this act take effect and be in force from and after its passage.

Approved April 4, 1874.

CHAPTER XLVIII.

An Act concerning rents and advances.

Section 1. Be it enacted by the Legislature of the State of Texas, That all persons leasing or renting lands or tenements, at will or for a term, shall have a preference lien upon the property of the tenant hereinafter indicated, upon such premises, for any rent that may become due and for all money, and the value of all animals, tools, provisions and supplies furnished by the landlord to the tenant, to enable the tenant to make a crop on such premises, and to gather, secure, house and put the same in a condition for market, the money, animals, tools, provisions and supplies so furnished being necessary for that purpose, whether the same is to be paid in money, agricultural products or other property; and this lien shall apply only to animals, tools and other property furnished by the landlord to the tenant, and to the crop raised on such rented premises; and it shall not be lawful for the tenant, while the rent and such advances remain unpaid, to remove or permit to be removed from the premises so leased or rented any of the agricul-

tural products produced thereon, or any of the animals, tools or property furnished as aforesaid, without the consent of the landlord; and such preference lien shall continue as to such agricultural products and as to the animals, tools and other property furnished to the tenant as aforesaid, so long as they remain upon such rented or leased premises, and for one month thereafter; and such lien as to agricultural products and as to animals and tools furnished as aforesaid shall be superior to all laws exempting such property from forced sales; provided, that such lien shall not attach to the goods, wares and merchandise of a merchant, trader or mechanic, sold and delivered in good faith in the regular course of business; and provided further, that the removal of agricultural products, for the purpose of being prepared for market, shall not be considered a waiver of such lien, but such lien shall continue and attach to the products so removed the same as if they had remained on such rented or leased premises.

Sec. 2. When any rent or advances shall become due, or the tenant about to remove from such leased or rented premises, or remove his property from such premises, it shall be lawful for the person to whom the rent or advances are payable, his agent, attorney, assigns, heirs, or legal representatives, to apply to any justice of the peace in the county where the premises are situated for a warrant to seize the property of such tenant; provided, such plaintiff, his agent or attorney, shall make oath that the amount sued for is for rent or for advances, such as are mentioned in the first section of this act, or shall produce a writing from such tenant to that effect, and shall further swear that such warrant is not sued out for the purpose of vexing and harassing the defendant; and the person applying for such warrant shall execute a bond with one or more good and sufficient sureties, to be approved by the justice of the peace, payable to the defendant, conditioned that the plaintiff will pay the defendant such damages as he may sustain in case such warrant has been illegally and unjustly sued out, which bond shall be filed among the papers of the cause, and in case the suit shall be finally decided in favor of the defendant he may bring suit against the plaintiff and his sureties on such bond, and shall recover such damages as may be awarded to him by the proper tribunal. Upon the filing of such oath and bond it shall be the duty of such justice of the peace to issue his warrant to the

proper officer, commanding him to seize the property of the defendant, or so much thereof as will satisfy the demand; which warrant shall be, if the same is within the jurisdiction of a justice of the peace, returnable to said justice; but if over the jurisdiction of the justice of the peace, the warrant shall be returnable to the district court of the county in which the leased or rented premises are situated, in which case it shall be the duty of the justice of the peace to transmit all the papers in said cause to said district court on or before the first day of the next term thereof.

Sec. 3. It shall be the duty of the officer to whom such warrant is directed to seize the property of such tenant, or so much thereof as shall be of value sufficient to satisfy such debt and costs, and the same in his possession safely keep, unless the same is replevied as herein provided, and make due return thereof to the court to which said warrant is returnable at the next term thereof. The defendant shall have the right at any time within ten days from the date of said levy, to replevy the property so seized, by giving bond payable to the plaintiff, with two or more good and sufficient sureties, in double the amount of the debt, or, at his election, for double the value of the property so seized; the value of the property to be assessed and endorsed on the warrant by the officer executing the same, conditioned that if the defendant be cast in the action, he or some other person for him shall return to the proper officer the specific property so levied upon to satisfy the judgment that may be rendered against him, or pay off and discharge the judgment, which bond shall be approved by the officer making such levy, and filed with the papers of said cause; and should judgment be rendered against the defendant and he fail to deliver the property so levied upon and replevied, or so much thereof as may be necessary to satisfy the judgment of the court, to the proper officer, within ten days after the date of such judgment, such bond shall be indorsed "forfeited" by the proper officer; and when such indorsement is made it shall be the duty of the clerk or justice of the peace, with whom the same is filed, forthwith to issue execution in favor of the plaintiff against all of the obligors in said bond, for the amount of said judgment, interest and costs; provided, in no case shall the sureties be liable for a greater amount than the amount of the bond; and provided, further, that if the property is of a perishable or wasting kind, and the defendant fails to replevy

as herein provided, the officer making the levy, or the plaintiff or the defendant, may apply to the justice of the peace issuing the warrant for an order to sell such property; and if any person other than the defendant apply for such order of sale, the justice shall not grant such order unless the person applying shall file with such justice an obligation, payable to the defendant, with one or more good and sufficient sureties, to be approved by said justice, that they will be responsible to the defendant for such damages as he may sustain in case such sale be illegally and unjustly applied for, or be illegally and unjustly made, which sale shall be conducted as sales under execution.

Sec. 4. It shall be the duty of the justice of the peace, at the time he issues the warrant, to issue a citation to the defendant, requiring him to answer before such justice, if he has jurisdiction to finally try the cause, and upon its being returned served, or in case the defendant has removed from the county without service, to proceed to judgment as in ordinary cases; and if he has not such jurisdiction, the citation shall require the defendant to answer before the district court, and shall be returned with the other papers to such court; provided, that if the defendant has removed from the county, the proper officer shall state this fact in his return on the citation; and provided, further, that in case the return is made to the district court, the plaintiff shall not be obliged to file his petition before suing out said warrant, but may file the same on or before the appearance day of the term of the court to which said papers are returnable; and further provided, that no other formalities shall be required from those mentioned in this act.

Sec. 5. Nothing in this act contained shall be so construed as to prevent landlords and tenants from entering into such stipulations or contracts in regard to rents and advances as they may think proper; and should the landlord, without any default on the part of the tenant or lessee, fail to comply in any respect with his part of the contract, he shall be responsible to said tenant or lessee for whatever damage may be sustained thereby; and to secure such damages to such tenant or lessee, he shall have a lien on all the property in his possession not exempt from forced sale, as well as upon all rents due to said landlord under said contract.

Sec. 6. That an act entitled "An Act concerning rents,"

approved January 16, A. D. 1843, and an act entitled "An Act supplementary to an act concerning rents," approved February 3, A. D. 1844, and an act entitled "An Act to give a lien on the crop and stock for advances to assist in making the crop," approved October 27, A. D. 1866; and the fifteenth section of an act entitled "An Act to organize the courts of justice of the peace and county courts, and to define their jurisdiction and duties," approved August 13, A. D. 1870, be and the same are hereby repealed, and that this act take effect and be in force from and after its passage.

Approved April 4, 1874.

CHAPTER XLIX.

An Act to authorize and allow the several County Courts in the State to build court houses and jails, and make repairs and improvements for the benefit of the county, and to provide funds to defray the expenses of the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That when, in any county in this State, it may become necessary, in the judgment of the county court of such county that a court house should be erected, or a jail built, or other county buildings erected or purchased, or the public buildings or offices need repairs, or other improvements made necessary for the use and benefit of the county, such county courts may, at some regular term, by order duly entered on the minutes of said court, specifying in said order the building or improvements to be made, proceed to levy a special tax for the purpose of raising the means to defray the cost of such building, improvements or repairs. Such tax so levied shall, for no one year, exceed in amount on the value of the taxable property of such county, the rate of one-third of one per cent. on each one hundred dollars worth of taxable property in such county, nor more than one-tenth of the occupation license or income tax assessed by the State upon occupations, trades, professions or incomes, nor more than fifty cents on each poll in such county. Said taxes when levied shall be assessed and collected as other State and county taxes, under the general tax laws of this State in force at the time of their levy, assessment and collection.

Sec. 2. Such special taxes shall only be collectable in money, and shall be paid into the county treasury in money, and shall only be paid out by the county treasurer upon the warrant or draft of the county court, specifying that said draft is drawn on the special improvement fund of the county, and designating the special improvement, the cost of which it is intended to defray; provided, if after the cost of the special building, improvement or repairs, to defray the cost of which such special tax was levied, has been paid and satisfied, and there should be a balance of said fund remaining in the county treasury unexpended, then the county court may, by order, appropriate such balance to general county purposes.

Sec. 3. In any county in this State having a population of eight thousand or less, the county court may, under the provisions of this act, proceed to order the erection of buildings and the making of repairs and improvements, the cost of which shall not in any one year exceed the sum of five thousand dollars. In any county in this State having a population of not less than eight thousand, nor more than ten thousand, the county court may order the erection of buildings and the making of improvements and repairs, the cost of which shall not in any one year exceed the sum of ten thousand dollars. In any county in this State having a population of not less than ten thousand nor more than fifteen thousand, the county court may order the erection of buildings, the making of improvements and repairs not to exceed in cost in any one year the sum of fifteen thousand dollars. In any county in this State having a population of not less than fifteen thousand nor more than twenty thousand, the county court may order the erection of buildings and the making of improvements and repairs not to exceed in cost in any one year the sum of twenty thousand dollars. In any county in this State having a population of not less than twenty thousand, the county court may order the erection of buildings and the making of improvements and repairs not to exceed in cost in any one year the sum of thirty thousand dollars. In no case under this act shall any county court order the erection of buildings or the making of repairs or improvements in addition to those already ordered and authorized by this act, till the buildings or repairs or improvements antecedently ordered and authorized have been fully paid for. In all cases where the county court of any county in this State have

ordered the erection of any buildings, or the making of any repairs or improvements under this act, they shall continue to levy the taxes in this act specified, or so much of the same as they may deem necessary from year to year, till the amount levied and collected shall be sufficient to defray the expense of such buildings, repairs or improvements.

Sec. 4. No district clerk, sheriff, county treasurer, justice of the peace, assessor or collector, or other officer in this State, shall take any contract, or have any interest, either directly or indirectly, in the erection of any building, repairs or improvements authorized by the county court under the provisions of this act. Should any officer have such interest, either directly or indirectly, in any contracts under the provisions of this act, for the erection of any building, or the making of any repairs or improvements ordered by the county court, he shall forfeit all rights to any pay under such contract, and he and his sureties shall be held to the completion and fulfillment of such contract.

Sec. 5. This act shall be so held and construed as not to interfere with the general powers and duties of the county courts under the general laws as they now exist or may hereafter exist, or with any contracts for the erection of county buildings, repairs or improvements, now entered into and existing, by any county court, but shall apply hereafter to the powers and duties of the several county courts of this State specially as to the erection of court houses, jails, and necessary county offices and buildings, the repair and preservation of the same, and the improvement and beautifying of court house squares and yards belonging to the several counties, and in no other particulars; and the power conferred by this act is especially limited to the matters herein specially enumerated.

Sec. 6. Where any county in this State has in a state of progress any county improvements or buildings enumerated in this act, or coming within the provisions of the same, the county court of such county is hereby authorized and empowered (provided, such court would be authorized and empowered under this act to order the erection of such building, or improvement or repairs, and to levy the taxes contemplated in this act to defray the cost of same) to levy the taxes herein specified and authorized, or so much thereof as may be necessary, to defray the cost of such building, improvements or repairs.

Sec. 7. That the police courts of the several counties of this State shall require the county treasurer to give a bond with two or more sureties, to be approved by said court, and conditioned as treasurers' bonds in other cases, said bond to be double the amount of taxes so levied and collected.

Sec. 8. That this act shall take effect and be in force from and after its passage.

Approved April 6, 1874.

CHAPTER L.

An Act supplemental to an act entitled "An Act to authorize and allow the several County Courts in this State to build court houses and jails, and make repairs and improvements for the benefit of the county, and to provide funds to defray the expenses of the same," passed at the present session of the Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That the above recited act shall not be construed so as to allow or authorize the several county courts of the several counties in this State, in any one year, to contract for buildings, repairs or improvements, where the cost of the entire completion of such buildings, repairs or improvements will exceed the amount of the taxation such court is authorized under the provisions of said recited act, to which this is a supplement, to levy and collect in three years.

Sec. 2. That said above recited act, to which this a supplement, shall not be so construed as to authorize the several county courts of the several counties of this State to make contracts to cover the revenues to be raised under said act for a longer period than three years; nor to authorize said county courts after having made contracts covering the revenues for said term to make any other contract under the provisions of said act until said precedent contracts have been fully paid off and satisfied.

Sec. 3. That this act shall take effect and be in force from and after its passage.

Approved April 6, 1874.

CHAPTER LI.

An Act to protect Fish in the inland streams and waters of the State of Texas, during spawning season.

Section 1. Be it enacted by the Legislature of the State of Texas, That hereafter it shall not be lawful for any person or persons between the (14th) fourteenth day of February and the (14) fourteenth day of June of each and every year, to drag or haul any fish net or seine, or set, or place, or use any fish net, seine, trap, or other contrivance of any character whatever, for the purpose of capturing fish (except the ordinary pole, hook and line), in any stream, lake, or pool of water within the State of Texas, above tide water; and any person or persons who shall offend against the provisions of this section, shall be guilty of a misdemeanor, and upon conviction before any court of competent jurisdiction, shall be fined in any sum not to exceed fifty dollars for each offense, and each twenty-four hours which may elapse after said first offense, shall, if said trap, seine, net or other contrivance for capturing fish be not removed, constitute a separate offense, and be liable to full fines and penalties which attach under this act to said first offense.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved April 6, 1874.

CHAPTER LII.

An Act to authorize the Judge of the Sixth Judicial District to hold a special term of the District Court of Harrison County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Judge of the Sixth Judicial District of the State of Texas, be and he is hereby authorized to hold a special term of the District Court in and for Harrison county, at the court house thereof, to commence on the second Monday in April, and may continue in session four weeks, for the trial of such matters as may be necessary.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved April 6th, 1874.

CHAPTER LIII.

An Act to repeal an Act entitled "An Act to regulate the Sale of Lands under the decrees of courts," approved the thirteenth day of August, 1870, and an Act entitled "An Act to repeal the third section, and amend the second section of an Act entitled "An Act to regulate the sale of lands under the decrees of courts," approved the thirteenth day of August, 1870, passed eighth day of May, 1871.

Section 1. Be it enacted by the Legislature of the State of Texas, That an act entitled "An Act to regulate the sale of lands under the decrees of courts," approved the thirteenth day of August, 1870, and an act entitled "An Act to repeal the third section, and amend the second section of an act entitled 'An Act to regulate the sale of lands under decrees of courts,' approved the thirteenth day of August, 1870," passed the eighth day of May, 1871, be and the same are hereby repealed.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved April 6, 1874.

CHAPTER LIV.

An Act making an appropriation to defray the Contingent Expenses of the first session of the Fourteenth Legislature of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of fifteen thousand dollars, or as much thereof as may be necessary, be and the same is hereby appropriated, out of any funds in the treasury not otherwise appropriated, to defray the contingent expenses of the Fourteenth Legislature, and that the certificates of the Secretary of the Senate and the Chief Clerk of the House of Representatives to the correctness of, and the approval of the chairman of contingent expenses committees of the Senate and House to the respective accounts against the two houses, shall be sufficient authority for the Comptroller to draw his warrant upon the Treasurer for the several amounts charged against said fund.

Sec. 2. That this act shall take effect from and after its passage.

Approved April 6, 1874.

CHAPTER LV.

An Act to create and provide for the organization of the county of Camp.

Section 1. Be it enacted by the Legislature of the State of Texas, That a new county, to be called Camp county, is hereby established out of the following portion of Upshur county, bounded as follows: beginning at a point twelve miles due north from the town of Gilmer; thence west to the Wood county line, and from said point twelve miles north of the town of Gilmer; thence due east to Big Cypress, the east boundary line of said county of Upshur; thence north with the meanderings of said stream, the same being the county line of said Upshur county, to the northeast corner of said county of Upshur; thence northwest with the meanderings of said stream to the northwest corner of said county; thence south with the west boundary line of said Upshur county to the point where the due west line, from the point twelve miles north of the town of Gilmer, intersects the Wood county line.

Sec. 2. That James F. Newson, Ebb Bolton, I. G. Credelle, I. R. Strickland, W. J. Singleterry, W. K. Heath and Dr. J. E. Harrison are hereby appointed commissioners, with full powers to organize said county; to employ a competent surveyor to run the lines of said county; one copy of said survey to be recorded in the office of the district clerk at the county site of said county, and one copy to be filed with the Secretary of State at Austin. And said commissioners, or a majority of them, shall, as soon as practicable after said survey has been made, meet in the town of Pittsburg and proceed to divide said county into five precincts; said commissioners, or a majority of them, shall then order an election for a justice of the peace for each precinct, and for a sheriff, a clerk of the district court, a treasurer and surveyor for said county of Camp, who shall hold their offices until the next general election thereafter for county officers. Said commissioners shall give at least twenty days' notice of said election, by posting notices thereof in three public places in each precinct of said county; said election shall be held at the town of Pittsburg, and shall be conducted in conformity with the laws regulating elections in this State. And for the purpose of carrying into effect the provisions of this

act, said board of commissioners are hereby invested with all the powers conferred upon judges and commissioners of elections by the laws of this State. The commissioners aforesaid shall make return of said election to the Secretary of State, at Austin, within twenty days after the same has been held, and shall retain a copy of the same for record in the office of the district clerk at the county seat of said county of Camp. Upon receipt of said returns by the Secretary of State, it shall be the duty of the Governor to issue commissions to those receiving the highest number of votes for the several offices herein named, after they have qualified according to law.

Sec. 3. That at an election to be held at the same time and place, and to be governed by the same rules and regulations as provided for in section two (2) of this act, the voters of the said county of Camp shall determine by ballot upon what point shall be the county seat, and should any one place so voted for receive a majority of all the votes cast at said election, the same shall be the county seat of said county; but should two or more places be voted for and no one of said places receive a majority of all the votes cast, then it shall be the duty of the aforesaid commissioners to hold another election. They shall give ten days' notice of the same, at which said election the two places having received the largest number of votes at the previous election shall be voted for, and the place receiving the highest number of votes shall be declared by said commissioners as the county seat until otherwise provided by law.

Sec. 4. That until the election and qualification of the officers herein mentioned, the business of the new county of Camp shall be transacted at the county seat of Upshur county.

Sec. 5. Be it further enacted, That until otherwise provided for by law, the county of Camp, for judicial purposes, shall be attached to the Ninth Judicial District, and for purposes of representation, to the Sixth Senatorial District.

Sec. 6. That this act shall take effect and be in force from and after its passage.

Approved April 6th, 1874.

CHAPTER LVI.

An Act making an appropriation to pay the Fees due certain officers in cases of impeachment and addresses against Judges now pending before the Fourteenth Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of one thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any money in the treasury not otherwise appropriated, to pay sheriffs, clerks and notaries public, fees in cases of impeachment and addresses against judges, now pending before this legislature.

Sec. 2. That the certificate of the chairman of the committee investigating such cases, countersigned by the clerk of the House, or secretary of the Senate, as the case may be, shall be sufficient authority to authorize the Comptroller of Public Accounts to issue his warrant on the treasurer in favor of such officer for the amount due.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved April 7, 1874.

CHAPTER LVII.

An Act to authorize and provide for a change of Venue in civil cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That a change of venue may be granted in any civil cause, upon application of either party, supported by his own affidavit and the affidavit of at least three credible persons, residents of the county in which the suit is pending, for any of the following causes: first, that there exists in the county where the suit is pending, so great a prejudice against him that he cannot obtain a fair and impartial trial; second, that there is a combination against him instigated by influential persons, by reason of which he cannot expect a fair and impartial trial; third, for other good and sufficient cause, to be determined by the presiding judge.

Sec. 2. That upon the grant of a change of venue the cause shall be removed to some adjoining county, the court

house of which is nearest to the court house of the county in which the suit is pending, unless it be made to appear in the application that such nearest county is subject to some objection, sufficient to authorize a change of venue in the first instance.

Sec. 3. When an order for a change of venue is granted, the clerk of the court shall immediately make out a true transcript of all the orders made in the cause, and shall transmit the same to the proper county; he shall also send with such transcript the original papers in the case.

Sec. 4. When application for a change of venue is made in conformity to the requirements of this act, the same shall be granted; unless it appear to the satisfaction of the judge hearing the application, upon proof made before him, that the persons making the affidavit are not credible persons.

Sec. 5. That this act take effect from and after its passage, and that all laws and parts of laws in conflict with this act be and the same are hereby repealed.

Approved April 7, 1874.

CHAPTER LVIII.

An Act to protect Carpenters, Mechanics, Artisans, and other workmen.

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever any article, implement, utensil, or vehicle, shall be repaired with labor and material, or with labor and without furnishing material, by any carpenter, mechanic, artisan, or other workman, in this State, such carpenter, mechanic, artisan, or other workman, is hereby authorized to retain possession of said article, implement, utensil, or vehicle, until the amount due on same for repairing by contract shall be fully paid off and discharged, and in case no amount is agreed upon by contract, then said carpenter, mechanic, artisan, or other workman, shall retain possession of such article, implement, utensil, or vehicle, until all reasonable, customary and usual compensation shall be paid in full.

Sec. 2. That whenever possession of any article, implement, utensil, or vehicle, shall have been obtained, as provided in the first section of this act, and such possession

shall continue for the period of ninety days, dating from the time the repairing shall have been performed and finished, the said carpenter, mechanic, artisan, or other workman, is hereby authorized to sell said article, implement, utensil, or vehicle, at public vendue, to the highest and best bidder for cash, first having given twenty days' notice by posting written or printed notices at three public places in the county in which the repairing was done, and shall apply the proceeds of the sale to the payment of such charges as may be due him for repairing only, and shall pay over the balance, if any, to the person or persons legally entitled to receive the same.

Sec. 3. If the person or persons who are legally entitled to receive the balance mentioned in the second section of this act are not known or have removed from this State, or from the county in which such repairing was performed, then it shall be the duty of the said carpenter, mechanic, artisan, or other workman, to pay said balance to the county treasurer of the county in which the repairing was done, taking his receipt therefor.

Sec. 4. Whenever any balance mentioned in the preceding sections of this act shall remain in the possession of the county treasurer for the period of two years unclaimed by the party or parties legally entitled to the same, such balance shall become part and parcel of the county fund of the county in which the repairing was done, and shall be applied and used as any other county fund or money of such county is applied and used.

Sec. 5. That all laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 6. That this act take effect and be in force from and after its passage.

Approved April 7, 1874.

CHAPTER LIX.

An Act to prevent the leaving of dead animals in the public highways, roads, or streets of this State.

Section 1. Be it enacted by the Legislature of the State of Texas, That hereafter it shall be unlawful for any person to leave the dead body of any horse, ox, steer, cow or

other animal, which may die while in the actual possession of such person, in any of the public roads, highways, or in any of the streets or alleys of any village, town or city of this State, or within fifty (50) yards of any of them; and any person so offending shall be fined in the sum of not less than five, nor more than one hundred dollars, to be enforced by any court of this State of competent jurisdiction; provided, that nothing in this act shall apply to stock running in the range.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved April 7, 1874.

CHAPTER LX.

An Act to repeal an Act entitled "An Act to locate the county seat of Trinity county," approved May 30th, 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That an act entitled "An Act to locate the county seat of Trinity county," approved May 30th, 1873, be and the same is hereby repealed.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved April 7, 1874.

CHAPTER LXI.

An Act to provide for the appointment of Sheriffs pro tem in certain cases, and prescribing the manner of qualification and the duties of such officers.

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever a sheriff is removed from office by a district judge or district court, immediately upon entry of such order of removal it shall be the duty of such district judge to appoint a sheriff pro tem for the county wherein such removal takes place, who shall hold his office until the election and qualification of his successor, and who, before entering upon the duties of his office shall give bond as such sheriff pro tem, in such sum as the district judge shall prescribe, conditioned and payable in all respects as

required by law for sheriffs, and shall take the oath of office prescribed by the constitution, which oath shall be indorsed upon said bond, and, together with the same, shall be filed and recorded in the office of the clerk of the district court of the county where such proceedings are had, as are other official bonds.

Sec. 2. Such sheriff pro tem so appointed shall perform all the duties of sheriff except those imposed upon him by law as collector of taxes, and the bond provided for in section one of this act shall be approved by the district judge.

Sec. 3. Immediately upon entry of the order of removal, the clerk of the district court wherein such removal is made shall deliver to the presiding justice of the county a certified copy of the order of removal, whereupon it shall be the duty of such presiding justice to order a special election to fill such vacancy in accordance with law, and upon the election and qualification of the person elected as sheriff, the appointment of the sheriff pro tem shall be at an end, and he shall turn over to his successor the office, together with everything pertaining thereto.

Sec. 4. That this act take effect and be in force from and after its passage, and all laws and parts of laws in conflict therewith are hereby repealed.

Approved April 8, 1874.

CHAPTER LXII.

An Act to adjust and define the western Boundary Line of San Jacinto County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the western boundary line of San Jacinto county shall be and run as follows, to-wit: Beginning in the channel of Trinity river, at a point opposite the mouth of Carolina creek, in Walker county, running in a direct line to a point five hundred varas east of D. F. Campbell's storehouse, in the town of Old Waverly, in Walker county; thence in a due line to the point where the old Montgomery county line crosses Peach Creek, (known as the Elmore Spring Branch); thence down the channel of said Peach Creek to where the lower line of R. S. Pace's survey crosses said creek.

Sec. 2. That the county courts of Walker, San Jacinto, and Montgomery counties be and the same are hereby empowered to appoint one commissioner from each of their respective counties, and it is hereby made their duty to run out and mark said line, and that any two of said commissioners (on failure of the third to act) may run out and mark said line in accordance with this act.

Sec. 3. That the county courts of each of said counties may appoint the county surveyor of their respective counties to act as commissioner in running out said line.

Sec. 4. That it is hereby made the duty of each of said courts to appoint said commissioners at their next regular meeting after the passage of this act, or as soon thereafter as possible.

Sec. 5. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 6. That this act take effect and be in force from and after its passage.

Approved April 8, 1874.

CHAPTER LXIII.

An Act amendatory of "An Act supplementary to 'An Act authorizing the disposition and sale of the University lands,' " approved August 30, 1856, approved November 12, 1866.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor of the State of Texas is hereby authorized to sell, alienate and convey all the lands heretofore donated or granted for the endowment of one or more Universities by the Congress of the Republic or State of Texas, or so much thereof as in his judgment will be to the interest of the University fund, as herein provided.

Sec. 2. That within six months after the passage of this act the Commissioner of the General Land Office shall cause the legally authorized surveyor within whose jurisdiction any of said land is situated, to survey said land into quarter sections, or tracts of one hundred and sixty acres each, in a square form, or as nearly so as practicable, carefully marking the corners with stakes, stones or mounds, and return a correct description of said surveys,

with the field notes thereof, to the Commissioner of the General Land Office, who shall cause the same to be recorded in a well bound book kept for that purpose. If said land cannot be surveyed so as to make quarter sections exact, so as to include all the lands in each survey, such fractional tract may be added to an adjacent full subdivision; provided, that where any of said lands have already been surveyed into quarter sections or fractional sections, the same shall not be re-surveyed, but the surveys, maps and field notes already made shall be returned by the surveyor of each county where the same is recorded, to the Commissioner of the General Land Office, who shall keep the same as before directed.

Sec. 3. That the surveyor who shall survey said land as herein provided, shall receive as a compensation for such services three dollars for each lineal mile actually and necessarily run in making such survey; and upon presentation of his certificate to the Comptroller, sworn to before some officer authorized to administer oaths, and approved by the Governor, the Comptroller shall draw his warrant on the Treasurer of the State for such amount in favor of said surveyor as may be due him for the aforesaid services, to be paid out of any funds belonging to said University not otherwise appropriated.

Sec. 4. The Commissioner of the General Land Office, so soon as practicable after the return of said surveys, shall cause the same, together with the surveys heretofore made, to be separately and carefully mapped, and said quarter sections carefully numbered, conforming to numbers heretofore made where the same has already been surveyed and numbered, and shall forward one copy of said field notes and maps of the said lands situated in each county to the surveyor of the district where the said lands lie; provided, that nothing contained in sections two and four of this act shall be so construed as to require lands situated in unorganized counties to be surveyed, or maps and field notes furnished until said counties are organized.

Sec. 5. That the Governor shall appoint three commissioners for each of said counties to value each subdivision of said land. Said commissioners shall be freeholders of the State, and qualified electors thereof, and in no wise interested in said land by settlement upon the same or otherwise, or of kin to any one so settled. Said commissioners, so soon as they receive their commissions, shall make and

subscribe before the district clerk, or any justice of the peace, an oath or affirmation, in writing, that they are in no wise interested in said land by settlement upon the same or otherwise, and that they will assess the real and true value of each tract or subdivision of said land, situated in such county, without reference to the enhanced value of the same by reason of any improvement thereon, and forward said oath or affirmation to the Commissioner of the General Land Office.

Sec. 6. That the Commissioner of the General Land Office shall forward to one of said commissioners a copy of the maps and field notes, provided for in section four of this act, of the lands embraced in the county for which said commissioners are appointed, so soon as he receives said affidavits.

Sec. 7. That within six months from the receipt of their said commissions, said commissioners shall assess the real value of said land embraced in their said counties, without reference to the improvements thereon; provided, it shall in no case be less than one dollar and fifty cents per acre, and shall make a report thereof in writing, designating the price of each quarter section of said land according to the numbers thereof, and append to said report their affidavit in writing, or the affidavit of any two of them, sworn to and subscribed before any officer authorized to administer oaths, stating that the valuation set forth in their report is a true and correct valuation of the same, which said report shall be by them forwarded to the Commissioner of the General Land Office.

Sec. 8. That said commissioners shall receive for their services for said appraisement three dollars each per day, for each day necessarily employed in making said valuation, and upon presentation of his or their accounts, sworn to before some officer authorized to administer oaths, setting forth the number of days actually employed in making such appraisement, and that no more time is embraced in said account than was actually necessary, the Comptroller shall, upon the approval of the account by the Governor, draw his warrant on the Treasurer for the amounts due said commissioners, to be paid out of the University funds.

Sec. 9. That so soon as said report shall be received, the Commissioner of the General Land Office shall forward a statement to the surveyor of the county or district from which was returned the surveys of said lands, a correct

statement of the valuation of the same as made by said commissioners, embraced or situated in said surveyor's county or district.

Sec. 10. That every actual settler on any of said lands, who has fenced and put in cultivation any portion of said land before the passage of this act, may purchase not more than one hundred and sixty acres of said land, and not less than eighty acres, so as to include his improvements, and for the purpose of enabling him to include his improvements, said quarter section on which the improvements are situated may be subdivided into eighty acre tracts, surveyed at right angles, and he may purchase any of said tracts; but in no case shall such lands be sold in less tracts than eighty acres; and when such quarter sections are so subdivided, the expense of such subdivision shall be paid by the purchaser, and the field notes of each additional survey shall be forwarded to the Commissioner of the General Land Office.

Sec. 11. The county surveyors aforesaid shall keep in their respective offices the maps and statements of the value of said land hereinbefore provided for; and any actual settler who desires to purchase the lands occupied and improved by him, shall, within six months from the date when said surveyor's office is opened for said purpose, file his written application with said surveyor for the purchase of said land, designating the quarter section on which his improvements are situated, and the quantity he desires to purchase, which statement shall be carefully filed and preserved by the surveyor; and he shall make a memorandum thereof, to be entered in a book kept for that purpose, stating the name of the applicant, the quantity of land he desires to purchase, the number or numbers of the tract or tracts on which it is situated, and the date of the application, a certified copy of all which shall be forwarded to the Commissioner of the General Land Office. The surveyor shall be allowed for his services, as provided for in this section, one dollar for each application, to be paid by the purchaser.

Sec. 12. That if the applicant desires to purchase an entire quarter section, or less, he shall, when the application is filed, forward one-tenth of the assessed value of the tract, or tracts, to the Treasurer of the State, who shall forward to such applicant a receipt for the amount received; and such applicant shall make, execute and deliver to the

surveyor his obligation in writing, payable to the Treasurer of the State, for the balance of the assessed value of the land, stipulating and agreeing therein to pay ten per cent. interest on said amount annually, with one-tenth of the principal for ten years, which interest, with one-tenth of the principal, shall be due and payable on the first day of January of each year; but said purchaser may have the privilege of paying the entire amount of principal and interest due at the time of payment, and liquidate his said obligation; and if such actual settlers do not apply to purchase said land within six months, the same shall be subject to sale, the same as other university lands not occupied.

Sec. 13. That all quarter sections of said land on which no person has settled before the passage of this act, or which have not been applied for by an actual settler, as provided in section twelve of this act, shall be sold to the purchaser making application, designating the quantity of land he desires to purchase, when the same proceedings shall be had as provided in section twelve of this act, and the same obligation entered into by the purchaser, with the additional obligation that he will settle upon and improve said lands within six months from the date he so designates; and if he does not settle upon such land within said time, the applicant shall forfeit all right and claim to the same.

Sec. 14. That the surveyor aforesaid shall give to such applicant who complies with the requirements of this act a certificate to that effect, designating the quarter section or parts of quarter section by him purchased.

Sec. 15. That the obligation so entered into by the purchaser of the said land shall be forwarded to the Commissioner of the General Land Office by the surveyor, and the said commissioner shall have the same recorded in a well bound book kept for that purpose, and he shall deliver the said obligations to the Treasurer of the State, who shall carefully file the same in his office.

Sec. 16. Said surveyor shall within ten days from the receipt of the statement of the valuation of said lands, as provided in section nine of this act, cause notice of the fact that his office is open for the sale of said lands, to be posted, one at the court house door of the county where his office is situated, and at five other places in his district, and also in some newspaper, if one is published in said county, for at least thirty days.

Sec. 17. The Commissioner of the General Land Office shall procure a well bound book in which shall be kept an account with such purchasers of said lands, showing the amount for which the same were sold and the interest accruing thereon.

Sec. 18. That upon the presentation of the receipt of the Treasurer of the State by any purchaser of said lands, for any amount due by him on his obligation to the Commissioner of the General Land Office, said Commissioner shall cause to be entered a credit on said purchaser's account for said sum, and the date of payment, and issue to him a certificate showing such payment.

Sec. 19. That should the purchaser fail to pay the annual installments, together with the interest thereon, to the Treasurer, and present his receipt to the Commissioner of the General Land Office, on or before the first day of March following the maturity thereof, said Commissioner shall notify the Treasurer of such failure, who shall endorse on such obligation a statement of such failure, and sign his name thereto, and said purchaser shall forfeit all his right and interest in said land.

Sec. 20. That should said purchaser die before the payment of any one installment and interest thereon falls due, his administrators, executors or heirs shall have an extension of twelve months in which to pay the same.

Sec. 21. In case of failure to pay said installments and interest, as hereinbefore provided, by any purchaser, the district attorney shall cause a writ to be issued and served on the purchaser, or in case of his death, upon his legal representatives or heirs, requiring him to show cause why he should not be ejected from such land, and upon his failure to show that he has paid such installments and interest thereon, as above provided, a judgment shall be rendered against him and a writ of possession be issued in favor of the State.

Sec. 22. In case said purchaser desires to sell such lands after he has settled upon the same, as above provided, he may do so; but in that event his vendee shall substitute his obligation in lieu of the obligation of his vendor, and settle upon the same in accordance with section thirteen of this act.

Sec. 23. Said lands shall be subject to taxation from date of purchase.

Sec. 24. That the proceeds arising from the sale of such lands shall be paid into the University fund.

Sec. 25. Upon final and full payment on any purchase made under the provisions of this act, the Commissioner of the General Land Office shall issue a patent to the purchaser making the same, or to his vendee or heirs.

Sec. 26. This act shall not affect the rights of any parties who may have purchased any of these lands by virtue of any laws of this State.

Sec. 27. In case any portion of the said University lands are not sold and taken up by actual settlers, as provided for in this act, any other person may purchase the same at not less than the minimum price fixed by the commissioners, and upon the same terms as actual settlers; provided, that no person other than an actual settler shall be permitted to purchase less than one hundred and sixty acres; and provided further, that if under the provisions of this section any improved lands should be sold, the purchaser thereof shall pay for the enhanced value of said land by reason of improvements, in addition to the appraised value thereof, which enhanced value shall be assessed under oath by two disinterested freeholders of the county where situated; and by them at the cost of the purchaser be reported to the Commissioner of the General Land Office, who shall add the same to the appraised value of said land under this act, and where other than a settler applies for purchase, his application shall be accompanied by his affidavit, stating that there is no actual settler on the land, and stating further whether it is improved or unimproved.

Sec. 28. That wherever such University lands have heretofore been surveyed, and maps of such surveys exist in the Land Office, the Governor shall, as soon as practicable after the passage of this act, appoint the appraisers, and the land may be sold as soon thereafter as practicable in compliance with the rules and forms prescribed in this act.

Sec. 29. All laws and parts of laws in conflict with this act shall be and are hereby repealed. That this act shall take effect and be in force from and after its passage.

Approved April 8, 1874.

CHAPTER LXIV.

An Act to amend an Act entitled "An Act regulating Elections," approved March 31, 1873, and an Act entitled "An act to amend an Act regulating Elections," approved April 1, 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That the first section of the above recited act, approved March 31, 1873, shall be amended so as to read as follows: Section 1. "That each justice's precinct of the counties of this State, as now established, or as they may be hereafter established, shall constitute an election precinct; but the county court of each county, at its first regular meeting after the passage of this act, or as soon thereafter as practicable, at a regular or called term, and thereafter at their first regular term in each year, or at any regular or called term when necessary, if the convenience of voters require it, shall divide their respective justice's precincts into at least two, and as many more election precincts as may be necessary, and shall designate the same by numbers and boundaries; and they shall at any regular or called term create additional election precincts whenever the same shall be applied for by at least thirty voters, living within the limits of the desired precinct, and they shall number the same and define the limits thereof, as hereinbefore required; provided, that the voting place in each of said precincts shall be at least two miles from the voting place in any other election precinct, where said precincts are without the limits of a town or city; provided, further, that no election precinct shall be created out of any two or more justices' precincts. And said county courts shall designate one place in each of said election precincts at which elections shall be held; and they shall, at any regular or any called term in each year, select and appoint from among the resident voters of each precinct, some suitable person to be the presiding officer of said precinct, who shall perform all the duties required by the other provisions of this act. And each ward of every incorporated city in this State, as established by the corporate authorities thereof, shall constitute one or more election precincts of the county in which the same is situated; provided, the voting places and presiding officers shall be appointed for the same as hereinbefore provided for other election precincts."

Sec. 2. That the fourteenth section of the above mentioned act be so amended as to read as follows: Sec. 14. "When any person shall offer to vote in the voting precinct where he resides, one of the judges of election shall examine the registration list furnished the presiding officer by the clerk of the district court, as provided by the law, and if the name of the person offering to vote appears upon said list, shall call the name of the voter aloud, and mark on said list opposite his name the letter "V," and the date of said election, and the other judge shall receive from the hand of the voter the ticket, and number the same as provided by the above recited act, and shall deposit the same in the ballot box in the presence of said voter. "Any qualified elector may vote anywhere in the State for State officers, or anywhere in the district for district officers; provided, that when such voter offers to vote out of the county of his residence, he shall deliver to the officers of the election a certificate of the registering officer of his precinct, under his seal, or his scroll if he has no seal, or from the district clerk of his county, which shall be under seal, showing that the voter has duly registered. And he shall also present to the officers of the election an affidavit in writing, that he is the person named in said certificate of registration; that he has not voted and will not vote elsewhere in that election, and that he is not absent from the county of his residence for the purpose of voting elsewhere; which affidavit he shall sign and swear to before one of the judges of the election, and the officers of the election shall deposit the same, with said certificate, with the clerk of the district court of the county wherein said vote was cast, for safe keeping and for judicial inspection, should the legality of such vote be questioned."

Sec. 3. That the sixteenth section of said act shall hereafter read as follows: "Sec. 16. That any person being a registered voter, and offering to vote out of the voting precinct where he is registered, but within the county of his residence, may do so on delivering to the officers of the election a certificate of the registering officer of his precinct, under his notarial or other official seal, or his scroll if he has no seal, or a certificate from the clerk of the district court of his county, under his official seal, showing that the person so offering to vote is duly registered; and upon his presenting to the officers of the election an oath, in writing, that he is the person named in said certificate;

that he has not voted and will not vote elsewhere in that election, and that he is not absent from his own precinct for the purpose of voting elsewhere, which oath shall be signed and sworn to before one of the judges of election by the voter, and shall, with said certificate of registration, be deposited by the officers of the election with the clerk of the district court for safe keeping and for judicial inspection, should the legality of such vote be questioned; provided, that the residents of a precinct shall at all times during an election, have preference in access to the polls over non-residents offering to vote under the provisions of this act. The registering officer shall be entitled to a fee of not exceeding ten cents for each certificate of registry provided for by this section and by section fourteen of said act, to be paid by the person applying therefor; and if any registering officer shall refuse or neglect to furnish any such certificate on demand made therefor by any person entitled to receive the same, such registering officer shall, on conviction, be punished for each refusal or neglect by a fine of not less than fifty, nor more than five hundred dollars; provided, the voter shall apply for the certificate in person two days before an election; and a note of said application shall be made by the clerk on a roll, to be kept in the clerk's office for public inspection, showing who have applied for such certificates. And any person who shall vote as permitted by this section, or by the preceding section, on any certificate not issued to him, by using a certificate issued to another, shall be deemed guilty of a felony, and on conviction shall be imprisoned in the penitentiary not less than two nor more than five years."

Sec. 4. That section nineteen of said act be so amended as to read as follows: "Sec. 19. When an election shall have been held for members of the Legislature, in a district composed of more counties than one, the presiding justice or other officer to whom the returns in each county are made, who are not authorized to give certificates of election to such persons aforesaid shall make out and send complete returns of such election, after examining and recording the same, to the returning officer of said district, which returns shall be sealed up, and the name of the officer forwarding them shall be written across the seal, and the package marked on the outside, 'Election returns,' which package may be sent by mail. The returning officer to whom the returns are so forwarded, or in case of his in-

ability, absence, refusal, or failure to act, the district clerk, or his deputy, shall, upon the thirtieth day after the election (Sundays excluded), open and count said returns in the presence of at least one of each political party; and after recording the same shall give a certificate of election to the person or persons receiving the highest number of votes for Senator or Representative in that district; provided, that if all the election returns from the district shall have been received by the returning officer of the district before the said thirtieth day, then the said returning officer may count said returns and issue the certificate herein provided for."

Sec. 5. That section twenty of said act shall hereafter read as follows: "Sec. 20. In all elections for district attorneys, the vote shall be counted by the presiding justice in each county, and the returns made to the Secretary of State in the same manner as provided in section twenty-one of said act for Comptroller of Public Accounts, Superintendent of Public Instruction and Representative in the Congress of the United States, and that the person receiving the highest number of votes shall be commissioned in the same [manner] as provided in section twenty-one of said act for said officers.

Sec. 6. That this act take effect and be in force from and after its passage.

Approved April 8, 1874.

CHAPTER LXV.

An Act to add the counties of Chambers, Liberty, Hardin and Jefferson to the Second Judicial District, and to prescribe the times of holding court in said District.

Section 1. Be it enacted by the Legislature of the State of Texas, That the counties of Chambers, Liberty, Hardin and Jefferson are hereby added to the Second Judicial District, and shall henceforth constitute a part of said district.

Sec. 2. That the district courts of the Second Judicial District shall be held at the times and places following, to-wit: In the county of Polk on the first Mondays in February, June and October, and may continue in session two weeks. In the county of Tyler on the third Mondays in

February, June and October, and may continue in session two weeks. In the county of Jasper on the second Mondays in March, July and November, and may continue in session two weeks. In the county of Newton on the fourth Mondays in March, July and November, and may continue in session one week. In the county of Chambers on the first Mondays in January, August and December, and may continue in session one week. In the county of Liberty on the second Mondays in January, August and December, and may continue in session two weeks. In the county of Hardin on the fourth Mondays in January, August and December, and may continue in session one week. In the county of Jefferson on the first Mondays in April and September, and the fourth Monday in May, and may continue in session two weeks.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved April 8, 1874.

CHAPTER LXVI.

An Act to reorganize the Fourth Judicial District of the State of Texas, and to provide for the holding the Courts therein.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Fourth Judicial District shall hereafter be composed of the following named counties, to-wit: San Augustine, Nacogdoches, Angelina, Cherokee and Houston.

Sec. 2. That the district courts of the said judicial district shall hereafter commence and be holden in the said counties as follows, to-wit: in the county of San Augustine on the first Monday in May, and may continue in session three weeks; on the second Monday in October, and may continue in session one week; on the fourth Monday in November, and may continue in session two weeks; in the county of Nacogdoches on the fourth Monday in May, and may continue in session four weeks; on the third Monday in October, and may continue in session one week; on the second Monday in December, and may continue in session four weeks; in the county of Angelina on the fourth Monday in June, and may continue in session two weeks;

on the fourth Monday in October, and may continue in session one week; on the second Monday in January, and may continue in session two weeks; in the county of Cherokee on the second Monday in July, and may continue in session five weeks; on the first Monday in November, and may continue in session one week; on the fourth Monday in January, and may continue in session five weeks; in the county of Houston on the first Monday in September, and may continue in session five weeks; on the second Monday in November, and may continue in session one week; on the first Monday in March, and may continue in session five weeks.

Sec. 3. Be it further enacted, That all process heretofore issued or hereafter to be issued shall be returnable to the said district courts of the several counties at times as provided in this act for the holding courts, and all causes shall be triable on service heretofore had at the terms of the several courts as herein provided for.

Sec. 4. That all laws and parts of laws in conflict with this act be and the same are hereby repealed, and that this act take effect and be in force from and after its passage.

Approved April 8, 1874.

CHAPTER LXVII.

An Act to provide for the protection of the Frontier of the State of Texas against the invasion of hostile Indians, Mexicans, or other marauding or thieving parties.

Section 1. Be it enacted by the Legislature of the State of Texas, That upon satisfactory evidence being furnished the Governor of this State that hostile Indians, Mexicans, or other marauding or thieving parties are depredating upon the lives or property of the citizens of any county or counties upon the frontier of this State, the Governor is hereby required, and shall organize or cause the same to be done, one company of not less than twenty-five, nor more than seventy-five men, for each county that may be so infested; provided, the whole number of men shall not exceed seven hundred and fifty.

Sec. 2. That said companies shall be raised from the county and surrounding counties on the frontier, designated by Governor.

Sec. 3. That no company shall be mustered into the service of this State, under the provisions of this act, for a longer period of time than twelve, nor shorter period than three months.

Sec. 4. The commissioned officers of each company of fifty men or more, shall consist of one captain, one first lieutenant and one second lieutenant; of less than fifty men, one first lieutenant and one second lieutenant. The non-commissioned officers for each company shall consist of one sergeant and one corporal for every ten men.

Sec. 5. That the commanding officers of the companies shall purchase all necessary rations and forage hereinafter provided for, and shall give the person from whom such purchase shall be made a certificate of purchase, stating the amount, kind, quality and price of articles furnished, to which shall be attached an affidavit, signed by the officer and the person from whom the purchase may have been made. Said affidavit shall be as follows: That the claim or account is accurate and just, and that the price charged is not above the market value of the article at the time and place where sold, and that said articles were actually used or consumed by said company.

Sec. 6. In the event any commanding officer shall purchase a greater amount of rations or forage than is hereinafter allowed, the paymaster shall deduct the excess thereof from his pay.

Sec. 7. That the commanding officer of each company mustered into service under the provisions of this act, shall forward to the Adjutant General of the State, on the last day of each month, a pay-roll showing the amount due each member of his command; which pay-roll shall be certified to by the commanding officer. And it is hereby made the duty of the Comptroller to draw his warrant upon the Treasurer in favor of each officer, non-commissioned officer and private in the command, separately, for the amount due on each one as set forth in the pay-roll, which warrants shall be forwarded by the Adjutant General to the commanding officer of the company, to be delivered to the men of his command, and said warrants may be paid by the sheriff of the county in which the command was raised or is in service, out of any funds in his hands belonging to the State, and all transfer of warrants by officers or men shall be certified to before some civil officer authorized to administer oaths, and when so transferred they

shall be payable at the treasury of the State upon presentation.

Sec. 8. Each member of such company organized under the provisions of this act shall be required to furnish himself with a suitable horse, and one six-shooting pistol (army size) blankets, clothing and camp equipage: the horse shall be valued by the enrolling officer hereinafter provided for, and two other disinterested persons, who shall be sworn to make a true and fair valuation of the same; and should any horse or horses be killed or permanently disabled whilst in action, the paymaster shall pay the owner of the same the appraised value thereof, upon an affidavit made to that effect by the owner of the horse and a member of the company, upon the certificate of the commanding officer of the company, that the facts set forth in said affidavit are true; and no member of any company shall dispose of or exchange his horse or arms whilst in the service of the State, without the consent of the commanding officer of his company.

Sec. 9. The State shall furnish all necessary ammunition, and each officer and private an improved breach-loading cavalry gun at cost; the guns furnished each company to be of the same kind and calibre, the price of which shall be deducted from the first money due the company; provided, that any member may furnish his own gun if of the same kind, calibre and good condition.

Sec. 10. The presiding justice of each of the counties in which it may be necessary to organize a company, shall be the enrolling officer for such county, whose duty it shall be to organize and muster into service the company of such county, and return the muster rolls of the company to the Adjutant General. And should any county not organized require a company under the provisions of this act, then the presiding justice of the county to which said unorganized county is attached for judicial purposes, shall organize and muster into service the company of such unorganized county in the same way and manner as prescribed by this section for the company of his own county.

Sec. 11. The commanding officer of any company, in case of emergency, shall have the right to call to his assistance the companies from the adjoining counties; provided, that not more than one-half of the men of any company shall be forced to leave their county. And when the troops are so called together, the ranking officer present shall take

the command of all the troops, and shall hold them together so long as the emergency exists.

Sec. 12. The Governor shall designate the seniority of the commissioned officers of same grade created by this act.

Sec. 13. The amount of rations and forage shall not exceed the following, to-wit: For each man's daily allowance, three-fourths pound bacon, or one and one-half pounds fresh beef; one and one-fourth pounds flour or corn meal; and for every fifty men, seven and one-half pounds beans or peas, five pounds rice, ten pounds green coffee, ten pounds sugar, one-half gallon vinegar, one-half pound candles, one pound soap, two pounds salt, two ounces black pepper, fifteen pounds potatoes. The forage for each horse shall not exceed twelve pounds corn or oats per day, two ounces salt per week.

Sec. 14. Upon the organization of any company under the provisions of this act, the officers shall be elected by the members composing the same, and all vacancies shall be filled by election.

Sec. 15. The pay of officers and privates shall be as follows: For captains, (\$100) one hundred dollars; lieutenants, (\$75) seventy-five dollars each; sergeants, (\$50) fifty dollars each; for all other non-commissioned officers, (\$40) forty dollars each, and privates (\$40) forty dollars each per month, for every month of actual service.

Sec. 16. The Governor, when he may deem it necessary, shall appoint a surgeon for one or more companies, whose pay shall not exceed one hundred dollars per month, and all necessary medicines to be furnished him by the State.

Sec. 17. The troops raised under the provisions of this act shall be governed by the rules and regulations of the United States army, so far as the same may be applicable, but shall always be and remain subject to the authority of the State of Texas, for the protection of the frontier.

Sec. 18. The Adjutant General shall cause to be made such other regulations for the government and control of the organization herein provided for as he may deem necessary, to the end that the force so provided shall be as effective as possible.

Sec. 19. That in addition to the force herein provided for, the Governor be and he is hereby authorized to organize a battalion of mounted men, to consist of six companies, of seventy-five men each. The commissioned officers shall

be one major, who shall command the battalion, and one captain and two lieutenants for each company, and one quartermaster. The battalion and company officers shall be appointed by the Governor, and shall be removed at his pleasure.

Sec. 20. The pay of the officers and men shall be as follows: major, (\$125), one hundred and twenty-five dollars; captains (\$100), one hundred dollars each; lieutenants (\$75), seventy-five dollars each; sergeants (\$50), fifty dollars each; for all other non-commissioned officers (\$40), forty dollars each; privates (\$40), forty dollars each, per month; and nothing shall be paid by way of commutation.

Sec. 21. The Governor shall appoint a quartermaster for this force, who shall discharge the duties of a quartermaster, commissary and paymaster, and shall rank and receive the pay of a captain, and give such bond as the Governor may require for the faithful performance of his duties.

Sec. 22. That the officers and men of this force shall be paid quarterly.

Sec. 23. That this force is not designed as a standing force, but shall always be under the command of the Governor, to be operated by his direction in such manner, in such detachments, and in such localities as the Governor may direct; and the same shall be disbanded and reorganized, or reassembled, from time to time, as in his judgment the exigencies of the frontier may demand.

Sec. 24. Each soldier and officer shall furnish his own horse, and, unless the same is killed in battle, shall not be paid for by the State.

Sec. 25. The Governor is hereby authorized to keep this force in the field as long as in his judgment there may be a necessity for such a force, and soldiers who may volunteer in such service shall do so for such term not to exceed four years, subject to disbandment and reassemblage by order of the Governor.

Sec. 26. Whenever, in the opinion of the Governor, this force shall be insufficient to protect the frontier, he shall be authorized to call out the minute men, or any part thereof, hereinbefore provided for, which said force is hereby declared to be auxiliary and supplemental to the battalion of mounted men authorized by this act.

Sec. 27. The State shall furnish necessary ammunition, and to each officer and private of this battalion an improved

breech-loading cavalry gun, at cost; the guns furnished to be of the same kind and calibre, the price of which shall be deducted from the first money due the battalion.

Sec. 28. Each officer of the battalion and of the companies of minute men herein provided for, shall have all the powers of a peace officer, and it shall be his duty to execute all criminal process directed to him, and make arrests under *capias* properly issued, of any and all parties charged with offense against the laws of this State.

Sec. 29. That the Governor of the State is authorized to disband all troops now in service of the State for frontier protection, as soon as practicable, and that they be allowed to retain all arms furnished by the State at the same price that the same were furnished to the State.

Sec. 30. That an act entitled "An Act to provide for the protection of the frontier," approved June 13, 1870, also an act entitled "An Act to muster into service mounted men for the protection of the frontier," approved November 25, 1871; also an act entitled "An Act to amend the first section of an act entitled 'An Act to muster into service minute men for the protection of the frontier,' approved November 28, 1871," approved June 2, 1873, and all other laws and parts of laws heretofore enacted on the same subject, be and the same are hereby repealed.

Sec. 31. The Governor and the Adjutant General are hereby authorized and empowered to make all additional regulations not contrary to the laws of this State, which are necessary to carry out the provisions of this act.

Sec. 32. That this act take effect and be in force from and after its passage.

Approved April 10, 1874.

CHAPTER LXVIII.

An Act to recognize and to provide for the payment of Lieutenant J. M. Elkin's company of Minute Men, organized in Coleman county.

Whereas, Coleman county is one of the extreme frontier counties, and was not included in an act entitled "An Act to muster into service minute men, for the protection of the frontier," approved November 25, 1871; and

Whereas, Lieutenant J. M. Elkins organized a company of minute men, under said act, for the protection of the citizens of that portion of the frontier, and has with his said company rendered valuable services to the State; and

Whereas, Lieutenant Elkins, with his company of minute men have repeatedly engaged and vanquished bands of hostile Indians, in one of which engagements he killed three Indians, and wounded many others; and

Whereas, the heroic services of this company deserve recognition by the State; therefore

Section 1. Be it enacted by the Legislature of the State of Texas, That Lieutenant J. M. Elkin's company of minute men, organized in Coleman county, be allowed the same pay for all past services rendered as other minute companies organized under the act of twenty-fifth of November, 1871, and that said company be paid in like manner as other minute companies.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved April 10, 1874.

CHAPTER LXIX.

An Act to further provide for the sale of Bonds, to pay the public debt.

Section 1. Be it enacted by the Legislature of the State of Texas, That the second section of "An Act to provide money to pay the floating indebtedness of the State," approved March 4, 1874, be and is hereby amended so as to read as follows: That said bonds shall be payable thirty years from the first day of January, A. D. 1874, to bearer, and shall bear interest at the rate of seven per cent per annum, payable semi-annually in gold, to-wit: On the first day of January, and the first day of July of each year, and to have coupons attached for each installment of interest which may become due. The principal and interest of said bonds shall be payable in the city of New York, or in the city of London, at the option of the Governor of the State, through such agent or agents as the Governor of the State may select.

Sec. 2. That the principal and interest of all bonds heretofore executed and issued, and now unsold, but au-

thorized to be sold for payment of any portion of the public debt, may, at the option of the Governor of the State, be made payable in the city of New York, or in the city of London, through such agent or agents as the Governor of the State may select.

Sec. 3. That five hundred dollars, out of any money in the treasury not otherwise appropriated, or so much thereof as may be necessary, is hereby appropriated to defray the additional expense of engraving bonds under this act.

Sec. 4. That all laws and parts of laws in conflict with this act be and the same are hereby repealed, and that this act shall take effect and be in force from and after its passage.

Approved April 13, 1874.

CHAPTER LXX.

An Act to amend sections two and three of an Act entitled "An Act to define the Tenth Judicial District of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That section two (2) of the above recited act be so amended as to hereafter read as follows: Sec. 2. "The District Court of Kaufman county shall be begun and held as follows: beginning on the first Mondays in October, February and June, and may continue in session two weeks.

Sec. 2. Section three of the above recited act shall be so amended as to hereafter read as follows: Sec. 3. "The County of Rockwall is hereby attached to the Tenth Judicial District, and the terms of the District Court in said county shall be begun and held on the third Mondays in October, February and June, and may continue in session one week.

Sec. 3. That all writs and process returnable to said courts shall be returnable to the terms of said courts as herein defined, and shall be as valid as if returned to the terms of said courts as they existed before the passage of this act.

Sec. 4. That all laws and parts of laws in conflict with the provisions of this act, be and the same are hereby repealed, and this act shall take effect and be in force from and after its passage.

Approved April 14, 1874.

CHAPTER LXXI.

An Act to legalize the acts of certain Officers.

Section 1. Be it enacted by the Legislature of the State of Texas, That all the official acts of clerks of District Courts acting as justices of the peace by virtue of an election held on the second day of December, A. D. 1873, heretofore done and performed by them in conformity with law, be and the same are hereby declared to be as legal and binding as if the said clerks had been duly qualified in accordance with law to hold the said office of justice of the peace.

Sec. 2. That this act be in force from and after its passage.

Approved April 14, 1874.

CHAPTER LXXII.

An Act making an appropriation for the salary of two of the Associate Justices of the Supreme Court.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of five thousand five hundred dollars, or so much thereof as may be necessary, is hereby appropriated to pay the salaries of the two additional Associate Justices of the Supreme Court, created by the late amendments to the Constitution.

Sec. 2. That this appropriation be paid out of any money in the State Treasury not otherwise appropriated.

Sec. 3. That this act shall take effect and be in force from and after its passage.

Approved April 14, 1874.

CHAPTER LXXIII.

An Act relating to the Bonds of Sheriffs.

Section 1. Be it enacted by the Legislature of the State of Texas, That no person shall be accepted as a surety for a sheriff upon any bond he is required by law to give, unless the said person offered as surety shall be a resident of the county of the sheriff. And any officer whose duty it is now to examine and approve a sheriff's bond, who shall approve a bond upon which there is any person as surety who is not a resident of the county of the sheriff, shall be guilty of a misdemeanor, and liable to be punished as provided by law.

Sec. 2. That in any case where any sheriff has heretofore given a bond with sureties thereupon, any of whom are not residents of the county of the said sheriff, it shall be the duty of the county court to give said sheriff notice to give a new bond in accordance with the provisions of this act, and the said sheriff shall be required, within twenty days after said notice, to make a new bond, and upon his failure to execute a new bond, he shall cease to be sheriff, and the office shall be declared to be vacant, and the office shall be filled as now required by law.

Sec. 3. That if any county court should fail or neglect to cause any sheriff to give a new bond, who has heretofore given one with sureties who are not residents of his county, it shall be the duty of the judge of the district court, within whose district the said county is, upon the complaint in writing, of any citizen of said county, either in vacation or term time, to cause the said sheriff to be cited to appear before him, at a time to be designated in said citation, at the county seat of the county in which said sheriff resides, and there to show cause why he should not execute a new bond.

Sec. 4. That if it appears to the satisfaction of the judge, upon the hearing of the cause, that the sheriff is required by law to give a new bond, he shall so order and require it to be done within such reasonable time as he may deem proper.

Sec. 5. That if the sheriff should neglect, fail or refuse to execute such a bond as he is required by this act to execute, then the said judge shall declare the office of sheriff vacant.

Sec. 6. That in any case where a sheriff has been cited to appear before a district judge, and the said judge shall order the execution of a new bond, it shall be the duty of said judge to examine said bond when made, and to indorse his approval or rejection on the same, and his action shall be conclusive as to the said bond.

Sec. 7. That this act take effect and be in force from and after its passage.

Approved April 14, 1874.

CHAPTER LXXIV.

An Act authorizing the Governor to postpone special elections for Senators and Representatives in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor shall have the power, if he should deem it necessary, to postpone the special elections to fill vacancies now existing in the Senate and House of Representatives, from the Third, Twelfth and Thirteenth Districts, to any period of time, not beyond the time for the next general election for Senators and Representatives, or for members to the Congress of the United States.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved April 14, 1874.

CHAPTER LXXV.

An Act to create the County of Lee.

Section 1. Be it enacted by the Legislature of the State of Texas, That a new county to be called Lee county be and the same is hereby created and established, with the following area and boundary lines, to-wit: beginning in Washington county, at the north corner of the most north-western DeWitt survey; thence on a direct line to the junction of Alligator and Turkey Creek; thence down Turkey Creek to its junction with Cedar Creek; thence down Cedar Creek to its confluence with the Yegua; thence up the

Yegua to the mouth of the East Yegua; thence up the East Yegua to the point where said stream is crossed by the Milam and Burleson county line; thence with said line to the point where it intersects the northeast boundary line of the Richard Ross survey; thence in a direct line to the point where the third Yegua crosses the Burleson and Bastrop county line on the John Tom league; thence with said county line to the point in said lines nearest the east corner of the Elias Marshall survey; thence in a direct line to the south-west corner of the David G. Green survey in Fayette county; thence in a direct line to the west corner of the A. J. Thompson survey; thence with the north-west boundary line of the same and with the north-west boundary line of the Wood Taylor and the most north-western DeWitt survey to the place of beginning,

Sec. 2. That C. Perry, Milton G. York, A. P. Gaines, Solomon Fehr, and O. G. Jones, be and they are hereby appointed commissioners, with full power and authority to organize said county of Lee. That the commissioners aforesaid shall, as soon as practicable after the passage of this act, lay off said county of Lee into five justices precincts; divide each of said justices' precincts into as many election precincts as they may deem necessary, and designate one place in each of such election precincts at which elections shall be held; select and appoint from among the residents of each election precinct some suitable person to be the presiding officer of such precinct, who shall have all the powers and authority, and shall discharge all the duties of other presiding officers of election.

Sec. 3. That said commissioners, a majority of whom shall constitute a quorum for the transaction of business, shall, within sixty days from and after the passage of this act, order an election for such officers as are now elective under the Constitution of this State, giving twenty days notice of said election, by posting notice thereof at such place in each election precinct as may have been designated for holding elections, and said elections shall be held at the place so designated in each of the election precincts within said county of Lee, and shall in all respects be conducted in accordance with the election laws of this State.

Sec. 4. That at the same time and place, with the same notice, and in accordance with the same laws, an election shall be held by order of said commissioners, to locate the county seat of Lee county; and the county seat of Lee

county shall be located at that place which shall receive a majority of all the votes cast for a county seat at such election; and in case no place within said new county shall receive such majority, said commissioners shall order another election to locate the county seat, giving ten days notice thereof, at which said election the two places only which received the highest number of votes at the previous election shall be voted for, and the place which shall receive the highest number of votes shall be declared by said commissioners to be the county seat of Lee county.

Sec. 5. That the presiding officer of each election precinct in said county of Lee, shall on or before the day of election, select two judges and two clerks, from the different political parties, if demanded, so far as practicable, who, together with the presiding officer, shall be the managers of the election in their respective election precincts; and the presiding officer shall administer to each of them an oath that they will each well and truly conduct the election without partiality or prejudice and agreeably to law, according to the best of their skill and understanding; and one of the judges of election so selected, shall, before opening the polls, administer to the presiding officer an oath that he will faithfully and impartially discharge the duties of presiding officer of election to the best of his skill and understanding.

Sec. 6. That the registered voters residing in said county of Lee, at the time of the passage of this act, be and they are hereby declared qualified electors at said elections; and said commissioners may, if they deem it necessary, previous to said election, provide for the registration of all persons residing in said county of Lee, who may be entitled to register, and who had not before registered.

Sec. 7. That the returns of said election shall be made to said commissioners, who shall, within ten days after the election, open them and estimate the result; whereupon they shall issue certificates of election to the persons elected, and make due returns thereof to the Secretary of State, who, upon the receipt of the same, shall, without delay, take the necessary steps to forward commissions of office to the persons duly elected; and any one of said commissioners is hereby authorized and empowered to administer the necessary oaths of office to the county officers who shall be thus elected, and the commissioners shall take

from them the bonds of office required by law, and pass upon the same as the law directs.

Sec. 8. That all the officers elected as hereinbefore specified shall hold their respective offices until the next general election, and until their successors shall be duly elected and qualified, unless sooner removed for cause according to law; and they shall be qualified to enter upon the discharge of the duties of their respective offices so soon as they shall have given bond and taken the oath of office.

Sec. 9. That the commissioners appointed by this act, before entering upon the discharge of their duties, shall take and subscribe an oath before some person authorized to administer the same, to faithfully and impartially discharge their duties as herein prescribed; and any one of said commissioners thus qualified is hereby authorized and empowered to administer the necessary oaths of office to the other commissioners and to all other officers whom it may be necessary for them to appoint in the discharge of their duties as such commissioners.

Sec. 10. That said commissioners, who shall thus act, shall each be entitled to receive three dollars per day, estimating only the time of actual service in organizing said county of Lee, out of the first money that may come into the treasury of said county.

Sec. 11. That until said officers shall be elected and qualified, all the territory of said county of Lee shall, for all purposes, belong to those counties respectively from which the same was taken.

Sec. 12. That said county of Lee shall constitute a part of the Twenty-ninth Judicial District of the State of Texas, for judicial purposes, and of the Sixteenth Senatorial District for the purpose of representation.

Sec. 13. That after their organization the county court of said county of Lee be and they are hereby authorized to levy and collect annually for five years a special tax of one-fourth of one per cent. on the taxable property within said county, for the purchase of lots and the erection of suitable public buildings at the county seat of said county.

Sec. 14. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed, so far as relates to the county of Lee, and that this act shall take effect and be in force from and after its passage.

Approved April 14, 1874.

CHAPTER LXXVI.

An Act to aid in recovering Stolen Property.

Section 1. Be it enacted by the Legislature of the State of Texas, That when any auctioneer or other person shall sell at auction any horse, mule or work ox, or oxen, before doing so he shall require of the party for whom the sale is to be made, a statement of the manner he acquired title to the same, and he shall reduce the statement to writing and add to it an accurate description of the animal, and also the name and residence of the purchaser and seller, and make a certificate which he shall file with the clerk of the county court, if the same should be a county seat, but if not a county seat, then with the clerk, recorder or mayor; but if at a place having no clerk, recorder or mayor, then at the county seat in the hands of the clerk of the same; and the said clerk, or other officer, shall receive the said certificate and keep the same on file for twelve months for the inspection of any person who may desire it.

Sec. 2. That any person who may violate the provisions of this act shall be deemed guilty of a misdemeanor, and may be prosecuted therefor, before any justice of the peace having jurisdiction, and upon conviction, may be fined in any sum not less than fifty nor more than one hundred dollars for each offense, and he shall also be liable in any civil suit to any party who may be damaged by his failure to comply with this law for such damages as such person may have sustained.

Sec. 3. That this act shall take effect and be in force from and after its passage.

Approved April 14, 1874.

CHAPTER LXXVII.

An Act to require the several Sheriffs of this State to execute additional Bonds in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That the several district judges of this State may

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of their own motion, or upon the complaint in writing, presented to said judge, by a citizen of any county in his district, that the bond of the sheriff, either as sheriff or as collector of taxes for the State and county, is insufficient from any cause, by order, direct any constable of the county to summon such sheriff to appear before him on a day and at a place certain, giving such sheriff reasonable time to attend and show cause, if any he can, why he should not be required to execute a new bond. The judge shall hear evidence in favor of and against the sufficiency of the bond. If upon the hearing the judge shall determine the bond to be insufficient as sheriff or tax collector, he shall so order, and cause the order to be entered on the minutes of the district court of the proper county. The judge shall further order, if he finds the bonds of the sheriff, or either of them insufficient, that such sheriff shall execute a new bond, which bond shall be approved by the judge on good and sufficient evidence of the solvency of the sureties for the entire amount of such bond over and above all of the exemptions allowed by the Constitution and laws of this State, and over and above all existing liabilities. Said bond shall be for the amount and conditioned as now required by law. If said bond is not executed and approved within twenty days after the order is made by the district judge for such new bond, then the office of sheriff for such county shall become vacant, and the district judge shall cause an order to be entered on the minutes of the district court of the proper county to that effect.

Sec. 2. The district judge, on good cause shown may extend the time for the execution of such bond for a time not to exceed ten days. After service of notice to appear and show cause on a sheriff, he shall be suspended from all of the functions of his office until he complies with the order of the judge to give a new bond: if such is the case, or it is decided that his old bond is sufficient.

Sec. 3. When under this act a new bond shall be required of any sheriff, either as sheriff or tax collector, or both, the sureties on such bond or bonds, in addition to the other requirements of this act, shall be residents of the county where such sheriff is acting; and the judge is hereby authorized and empowered to issue all writs and process to compel the attendance of the witnesses, and to enforce the authority conferred by this act.

Sec. 4. That this act shall be construed to be cumulative, and that it take effect and be in force from and after its passage.

Approved April 14, 1874.

CHAPTER LXXVIII.

An Act to authorize the Judge of the Twenty-fourth Judicial District to hold a Special Term of court in the county of Kinney.

Section 1. Be it enacted by the Legislature of the State of Texas, That the judge of the Twenty-fourth Judicial District is hereby authorized and required to hold a special term of the district court in Kinney county, in said district, commencing on the fourth Monday in April, A. D. 1874, and to continue in session one week.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved April 14, 1874.

CHAPTER LXXIX.

An Act to provide for the supplying of lost Records in the several Counties in this State.

Section 1. Be it enacted by the Legislature of the State of Texas, That all deeds, bonds, bills of sale, mortgages, deeds of trust, powers of attorney and conveyances of any and every description, which are required or permitted by law to be recorded, and which have been so recorded, and any and every judgment of a court of record in this State, and which record and minutes of court containing such judgment have been lost, destroyed or carried away, may be supplied by parol proof of the contents thereof, which proof shall be taken in the manner hereinafter provided.

Sec. 2. Any person having any interest in any such deed, instrument in writing or judgment, the record or entry of which has been lost, destroyed or carried away, may in addition to any mode now provided by law for establishing the existence of such record, and the contents

thereof, apply to the district judge of the district in which such county, the records of which have been lost, destroyed or carried away, is situated, for a citation to the grantor in such deed, or to the party or parties interested in such instrument of writing, or to the party or parties who were interested adversely to the applicant at the time of the rendition of any such judgment, or who may be now interested, or the heirs and legal representatives of such parties, to appear at a term of the district court, to be designated in said citation, and contest the right of the applicant to have any such deed, instrument in writing or judgment substituted and recorded; and service shall be as now provided for process from the district court; and on hearing said application, if the court shall be satisfied of the existence of such deed, instrument in writing, record or judgment and of the loss, destruction or carrying away of the same, as alleged by the applicant, and the contents thereof, an order shall be entered on the minutes of the district court to that effect, which order shall contain a description of the lost deed, instrument in writing, judgment or record, and the contents thereof; and a certified copy of such order may be recorded in the records of the county, and shall stand in the place of and have the same force and effect as the original of said lost deed, instrument in writing, judgment or record; and when duly recorded may be used in evidence in any of the courts of this State with like effect as the original thereof.

Sec. 3. All certified copies from the record of such county, the record of which has been lost, destroyed or carried away, and all certified copies from the records of the county or counties from which said county was created, may be recorded in such county; provided, the loss of the original shall be first established.

Sec. 4. That when any of the original papers mentioned in section one of this act may have been saved or preserved from loss, the record of said originals having been lost, destroyed or carried away, the same may be recorded again, and this last registration shall have force and effect from the date of the filing for original registration; provided, said originals are so recorded within five years after the passage of this act; and certified copies from any record, authorized by the provisions of this act to be made, may be received in evidence in all the courts of

this State in the same manner and with like effect as certified copies of the original record.

Sec. 5. That this act take effect and be in force from and after its passage.

Approved April 14, 1874.

CHAPTER LXXX.

An Act to amend an Act entitled "An Act prescribing the times of holding the District Courts in the several Judicial Districts in the State," approved August 10, 1870.

Section 1. Be it enacted by the Legislature of the State of Texas, That the thirty-second section of the aforecited act be so amended as to hereafter read as follows: "Sec. 32. That the district courts of the Thirty-first Judicial District shall be holden at the times hereinafter specified, in each year, to-wit: in the county of Freestone on the first Monday in April, and may continue in session one week; and on the second Mondays in August and December, and may continue in session three weeks; in the county of Leon on the third Monday in April, and may continue in session one week; and on the first Mondays in September and January, and may continue in session three weeks; in the county of Robertson on the second Mondays in June, October and February, and may continue in session till the business is disposed of. All writs and process returnable to the terms of said courts as heretofore fixed by law, shall be returnable to the terms of said courts as fixed in this act, and shall be as valid as if no change in the times of holding said courts had been made.

Sec. 2. That all laws and parts of laws in conflict with the provisions of this act are hereby repealed, and that this act take effect and be in force from and after its passage.

Approved April 14, 1874.

CHAPTER LXXXI.

An Act to attach the County of Waller to the Thirteenth Senatorial District.

Section 1. Be it enacted by the Legislature of the State

of Texas, That the Thirteenth Senatorial District of the State of Texas shall hereafter include and be composed of the counties of Austin, Fort Bend, Wharton, and Waller, and the presiding justice of Austin county shall be the returning officer of said district.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved April 14, 1874. .

CHAPTER LXXXII.

An Act to amend section eighteen of an Act entitled "An Act concerning proceedings in the District Court," passed the sixteenth day of March, eighteen hundred and forty-eight, and took effect August 1, eighteen hundred and forty-eight.

Section 1. Be it enacted by the Legislature of the State of Texas, That the eighteenth section of the above recited act shall be amended so as to read as follows: "Sec. 18. When any person may anticipate the institution of a suit in which he may be interested, and may desire to perpetuate the testimony of a witness, or witnesses, to be used in such suit, he, his agent, or attorney, may file a written statement in the district court of the county where such suit could be instituted, representing the facts and the names and residences, if known, of the persons supposed to be interested adversely to said person; a copy of which statement and writ shall be served on the persons interested adversely; or where such person, his agent, or attorney, shall, at the time of filing such statement, make affidavit that the names and residences of the heirs, successors, or legal representatives of any deceased person, are unknown to the affiant, or reside beyond the jurisdiction of the State, the clerk of the court shall issue a like writ, which shall be served on such unknown or non-resident persons by publication in some newspaper, in the mode and manner designated by law for the service of original process from the district court upon non-residents or unknown parties; after which the depositions of such witness, or witnesses, may be taken and returned by the parties making the said statement in the form and under the rules prescribed for taking testimony by deposition in the district court, and such tes-

timony may be used in any suit, or suits, which may be thereafter instituted by or between any of the parties to the statement, or those claiming under them, in like manner as if such depositions had been taken after the institution of such suit or suits; and when such suits have been instituted all such depositions so taken and returned shall be subject to the like exceptions as all other depositions.

Sec. 2. That this act shall take effect and be in force from and after its passage.

Approved April 14, 1874.

CHAPTER LXXXIII.

An Act to amend an Act amendatory of an Act to amend an Act entitled "An Act prescribing the times of holding the District Courts in the several Judicial Districts in the State." Approved August 10, 1870, approved April 17, 1871, approved June 4, 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That section one of the aforesaid amended act, approved June 4, 1873, be amended to read as follows: That the District Courts of the Fifteenth Judicial District be held as follows: In the county of Webb, on the first Mondays in March, July and November, and may continue two weeks; in the county of Zapata, on the third Mondays in March, July and November, and may continue in session one week; in Starr county, on the fourth Mondays in March, July and November, and may continue in session two weeks; in Hidalgo county, on the fifth Mondays after the first Mondays in March, July and November, and may continue in session one week; in Cameron county on the sixth Mondays after the first Mondays in March, July and November, and may continue in session until the business is disposed of; that the unorganized county of Encinal, for judicial purposes, shall be attached to the county of Webb.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved April 15, 1874.

CHAPTER LXXXIV.

An Act to Re-assess Taxes in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever the tax rolls or list of assessment of any county heretofore made out for the years 1873 and 1874, and not yet returned to the Comptroller's office, has been destroyed by fire or otherwise, the Assessor of said county is hereby authorized and required to make a new or re-assessment at once, and make return as required by law.

Sec. 2. That for such extra services, said assessors shall be allowed and receive the same fees for each assessment as now allowed by law.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved April 17, 1874.

CHAPTER LXXXV.

An Act to amend the fourth section of an Act entitled "An Act to Establish, Organize and Define the Powers of the Criminal District Court in and for the cities of Dallas, McKinney and Sherman," passed June 4, 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That the fourth section of the above recited act shall hereafter read as follows: "Sec. 4. Said judge shall hold a term of said court in the city of Sherman, commencing on the first Mondays in March, July and November, and in the city of McKinney, commencing on the first Mondays in February, June and October, and in the city of Dallas, commencing on the first Mondays in January, May and September of each year, and to continue four weeks, unless the business is sooner disposed of.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved April 17, 1874.

CHAPTER LXXXVI.

An Act to Re-organize the Seventh, Eighth and Eleventh Judicial Districts of the State of Texas, and to fix the time for holding the Courts therein.

Section 1. Be it enacted by the Legislature of the State of Texas, That from and after the passage of this act, the Seventh Judicial District shall be composed of the following counties, to-wit: Marion, Cass, Titus and Bowie; that the Eighth Judicial District shall hereafter be composed of the following counties, to-wit: Red River, Lamar and Fannin, and that the Eleventh Judicial District shall hereafter be composed of the following counties, to-wit: Collin, Hunt, Hopkins and Delta.

Sec. 2. That the District Courts of the Seventh Judicial District shall be holden at the time hereinafter specified, to-wit: in the county of Bowie on the last Mondays in February, June and October, and may continue in session two weeks; in the county of Titus on the second Mondays in March, July and November, and may continue in session three weeks; in the county of Cass on the first Mondays in April, August and December, and may continue in session three weeks; in the county of Marion on the fourth Mondays in April, August and December, and may continue in session six weeks, or until the business of the term can be disposed of.

Sec. 3. That the District Courts of the Eighth Judicial District shall be holden at the times hereinafter specified, to-wit: in the county of Fannin on the first Mondays in January, May and September, and may continue in session four weeks; in the county of Red River on the first Mondays in February, June and October, and may continue in session four weeks; in the county of Lamar on the first Mondays in March, July and November, and may continue in session five weeks, or until the business of the term is disposed of.

Sec. 4. That the District Courts of the Eleventh Judicial District shall be holden at the times hereinafter specified, to-wit: in the county of Delta on the second Mondays in January, May and September, and may continue in session two weeks; in the county of Hopkins on the first Mondays in February, June and October, and may continue in session four weeks; in the county of Hunt on the first Mondays in March, June and October, and may con-

tinue in session three weeks; in the county of Collin on the fourth Mondays in March, July and November, and may continue in session five weeks, or until the business of the term is disposed of.

Sec. 5. That the first courts held in the Seventh Judicial District under this act, shall be commenced in Bowie county, on the first Monday in June next, and all writs and process that shall issue from any of said District Courts after this act shall take effect, shall be returnable to the terms of said courts as fixed by this act.

Sec. 6. That the first courts held in the Eighth Judicial District under this act, shall be commenced in Fannin county on the first Monday in May next, and all writs and process that shall issue after this act shall take effect from any of said courts, shall be returnable to the terms of said courts as fixed by this act.

Sec. 7. That the first terms of the courts held in the Eleventh Judicial District under this act, shall commence in Delta county, on the second Monday in May next, and all writs and process that shall hereafter issue from any of said courts shall be returnable to the terms of said District courts as fixed by this act.

Sec. 8. That all laws and parts of laws heretofore passed that are in conflict with any of the provisions of this act, be and the same are hereby repealed, and that this act take effect and be in force from and after the 20th day of April.

Approved April 17, 1874.

CHAPTER LXXXVII.

An Act to confer jurisdiction of certain civil causes on the
Courts in the several Counties in this State.

Section 1. Be it enacted by the Legislature of the State of Texas, That any public or private corporation created by or under the laws of this State, or any other State or country, or any association or joint stock company, may be sued in any court having jurisdiction of the amount in controversy, in any county in this State, in which the cause of action of a part thereof arose; provided, that this act shall not apply to counties, cities and towns; provided, that any

suit against a fire or marine insurance company or association may be commenced in any county where the property or any part of the same insured may be situated; and in case of any suit against any life or accident insurance company or association, suit may be commenced in any county where the persons insured, or any of them, may reside at the date of the commencement of said suit.

Sec. 2. That service of process may be had on any such corporation, association, or joint stock company, by delivering a copy to the agent or person representing such corporation in the county in which the cause of action, or a part thereof, arose.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved April 17, 1874.

CHAPTER LXXXVIII.

An Act to reorganize Young County.

Section 1. Be it enacted by the Legislature of the State of Texas, That R. J. Johnson, H. D. Williams, and D. C. Brooks, be and they are hereby appointed commissioners to reorganize the county of Young, and to perform the duties herein required of them as such commissioners; and they shall file in the office of the Secretary of State their oath of office, to faithfully perform the duties of such commissioners. Within ninety days from the passage of this act, and after the filing of said oath, they are hereby authorized to enter upon and perform all official duties imposed by this act upon them; and any officer, authorized by law to administer oaths, is hereby authorized to administer the oath prescribed by this section.

Sec. 2. That each of said commissioners is hereby appointed a registrar for said county of Young, and upon taking the oath and qualifying, as required by law for registrars, before any notary public or justice of the peace, shall open their registration books for the registration of the voters at Fort Bellknap and at Graham City, in said county of Young, and give notice thereof by posting notices as required by law; and they are hereby authorized to administer all oaths and to do and perform all acts of registrars under the laws of this State, and to keep open their books

for such registration until one hundred and fifty legal voters of said county have been duly registered.

Sec. 3. When one hundred and fifty voters of said county of Young shall have been registered under the provisions of this act, the commissioners aforesaid shall lay off said county into five justices' precincts, and shall order an election for one clerk of the district court, one sheriff, one treasurer, one surveyor, and five justices of the peace; one justice of the peace for each of said precincts, who shall hold their respective offices until the next general election. The commissioners shall appoint three inspectors of said election, administer to them the oath of office, and said inspectors shall hold and conduct said election for said officers at Fort Bellknap in said county, in all respects conforming to the law regulating elections when the same do not conflict with this act; and the certificate of such inspectors shall be sufficient authority to any of such officers to enter upon the discharge of their duties.

Sec. 4. Said commissioners shall assemble at Fort Bellknap aforesaid, five days before said election, and they are hereby constituted a board of revision and correction, and so assembled they shall perform the duties of such board in accordance with the laws regulating the same.

Sec. 5. They shall administer all oaths of office to the officers elected under this act, and approve bonds of the same, which said bonds shall be conditioned as the law requires.

Sec. 6. Any qualified elector of said county may hold and exercise the duties of any office in said county.

Sec. 7. The county seat of said county shall remain at Fort Bellknap, in said county, until the qualified electors of said county shall select some other point for said county seat in accordance with the laws regulating the locating or removal of county seats.

Sec. 8. That this act shall take effect and be in force from and after its passage.

Approved April 17, 1874.

CHAPTER LXXXIX.

An Act to enable clerks of the District Courts in certain counties to qualify as Justices of the Peace.

Section 1. Be it enacted by the Legislature of the State

of Texas, That it shall be lawful for such clerks of the district courts as were elected justices of the peace of their respective counties at the late general election, to hold the office of justice of the peace, upon giving bond in the sum required by law of justices of the peace, to be approved by the county court of their respective counties; provided, said bond shall be given within sixty days after the passage of this act.

Sec. 2. That all laws and parts of laws in conflict with the provisions of this act, be and the same are hereby repealed, and that this act take effect and be in force from and after its passage.

Approved April 20, 1874.

CHAPTER XC.

An Act to establish a Criminal Court in and for the cities of Waco and Marlin, and defining the powers thereof.

Section 1. Be it enacted by the Legislature of the State of Texas, That there is hereby created and established at the city of Waco, in the county of McLennan, and at the city of Marlin, in the county of Falls, each a court of original and exclusive jurisdiction (except as hereinafter provided), in all cases of felony, and concurrent jurisdiction in all cases of misdemeanor, co-extensive with the limits of the counties wherein said cities are situated; and the judge thereof shall, by virtue of his office, have all the powers and perform all the duties appertaining to judges of the district courts within this State in all criminal matters, and to grant all such writs and process as a district judge can or may do in the execution of the criminal laws of this State; and said courts shall have and exercise appellate jurisdiction and the same general control over inferior tribunals in said counties in criminal cases as is now exercised by district courts; and all appeals from the judgments of said courts herein established, shall be to the Supreme Court, in the same manner and under the same regulations as are now, or may hereafter be provided by law for appeals in criminal cases from district courts.

Sec. 2. Said courts and the judge thereof shall have power to issue the writ of habeas corpus and such other

writs as may be necessary to enforce their own proper jurisdiction.

Sec. 3. The said courts, in each city, shall have a seal similar to those of the district courts, with the words "Criminal Court of " engraved thereon; the blank to be filled with the name of the proper city, an impression of which seal shall be attached to all writs and other process, except subpoenas, issuing from said court, and shall be used in the authentication of all official acts of said court, or the clerk thereof, and certified copies of all orders, proceedings, judgments and other acts of said courts, under the hand of the clerk thereof, attested with the seal of the court taken from the minutes and records thereof, shall be admissible in evidence in all courts of this State in like manner as similar certified copies from district courts are now or may hereafter be admissible.

Sec. 4. There shall be appointed by the Governor, by and with the advice and consent of the Senate, a judge of said courts, who shall hold his office for the term of six years, and shall be removable in the same manner as judges of the district courts. Should a vacancy occur in said office during a recess of the Senate, the Governor shall fill the same by appointment, which shall be sent to the Senate within ten days after that body shall assemble; and if not confirmed the office shall immediately become vacant.

Sec. 5. The terms of said courts shall be held as follows, to wit: at Marlin, in the county of Falls, on the first Mondays in January, May and September in each year, and may continue in session three weeks; at Waco, on the fourth Mondays in January, May and September, in each year, and may continue in session four weeks.

Sec. 6. The trials and proceedings in said courts shall be conducted according to the laws in force governing the rules of pleadings, practice and evidence in the district courts, and the regulations of the Penal Code, Code of Criminal Procedure, and all other laws with reference to criminal practice and procedure, to fines and forfeitures, and to grand and petit jurors shall be applicable to said courts.

Sec. 7. All criminal business pending in the district courts of the counties of McLennan and Falls shall be transferred to said criminal courts, at the first term thereof, in their respective counties, and after that date said criminal courts shall have and exercise exclusive jurisdiction

and control thereof the same as if originally instituted in said courts.

Sec. 8. The clerks of the district courts, the sheriffs of the counties, and the district attorneys of the districts in which said cities are situated, shall be the clerks, sheriffs and district attorneys of said courts, under the same rules and regulations as are now prescribed by law for their official acts in the district courts of the State; and they shall be entitled to demand and receive the same fees for official services in said courts that they are now entitled by law to receive in criminal matters in the district courts.

Sec. 9. It shall be lawful for the judge of said courts to exchange or alternate with any district judge, as provided by law in criminal matters; but said judge shall not practice in any court of the State during the time he holds said office.

Sec. 10. The judge of the criminal courts herein established shall receive an annual salary of twenty-five hundred dollars, to be paid by the counties included in this act in the proportion following, that is to say, the county of McLennan shall pay fifteen hundred dollars of said annual salary, and the county of Falls shall pay one thousand dollars of said annual salary. Said salary shall be payable quarterly, and shall constitute a preferred claim against said counties; and the county courts of each of said counties shall make provision for the prompt payment of their respective portions of said salary at the end of each and every quarter in money.

Sec. 11. Whenever the judge of said courts may be legally disqualified from presiding on the trial of any cause pending therein, the venue of said cause shall be changed to the district court of the county wherein said cause is pending, to be therein proceeded with in accordance with law.

Sec. 12. All laws and parts of laws in conflict herewith are hereby repealed, and this act shall take effect and be in force from and after its passage.

Approved April 20, 1874.

CHAPTER XCI.

An Act Authorizing Clerks of the District Court and Justices of the Peace to issue Writs of Garnishment in certain cases herein provided.

Section 1. Be it enacted by the Legislature of the State of Texas, That hereafter, when an original suit is brought in any of the courts of this State, and the plaintiff, his agent, or attorney, files with the clerk of the district court, or justice of the peace, as the case may be, a good and sufficient bond, payable to the defendant in double the amount claimed in the suit, conditioned that he will prosecute his suit with effect and pay all damages that may be adjudged against him for wrongfully suing out such garnishment, and makes an affidavit in writing, which may also be made by the plaintiff, his agent, or attorney, that the amount claimed in such suit is just, due, and unpaid, and that he does not know of property sufficient belonging to the defendant that is liable to execution to satisfy the same, and that he has reason to believe that some person (naming him, her, or them) is or are indebted to, or has property or effects belonging to the defendant in his, her and their possession, and that the writ of garnishment is not made to injure the garnishee, the clerk of the district court, or justice of the peace, shall issue writs of garnishment in the same form and manner, and returnable as other writs of garnishment in other cases provided for by law; said defendant may replevy any property, money, or debt, so seized in the hands of such garnishee, by giving bond to the officer so seizing the same, payable to the plaintiff in such suit, with two or more good sureties to be approved by said officer, in double the amount of the debt so sued for, and conditioned for the payment of any judgment that may be rendered against said defendant in said suit, which bonds shall be returned to the court in which said suit is pending; and if a judgment shall be rendered for the plaintiff, execution shall issue against said defendant and his sureties for the amount of said debt so recovered.

Sec. 2. No final judgment shall be rendered on the answers of such garnishee, until after final judgment is rendered in favor of the plaintiff in the suit, when judgment may be taken as in other cases provided for by law.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved April 20, 1874.

CHAPTER XCII.

An Act granting Pensions to the Surviving Veterans of the Revolution which separated Texas from Mexico, including the Santa Fe and Mier Prisoners; the Survivors of the Company of Captain Dawson, who was massacred near San Antonio in the year 1842; the Survivors of those who were captured at the City of San Antonio in the fall of the year 1842, and taken to the Castle of Perote and confined therein; and the Survivors of Deaf Smith's Spy Company; and to provide for the liquidation and settlement of all arrearages due said Veterans under an Act of thirteenth of August, 1870, previous to the first of July, 1874.

Section 1. Be it enacted by the Legislature of the State of Texas, That there be and there is hereby granted to each survivor of the revolution which separated Texas from Mexico (including the Santa Fe and Mier prisoners; the survivors of the company of Captain Dawson, who was massacred near San Antonio in the year 1842; the survivors of those who were captured at the city of San Antonio in the fall of the year 1842, and taken to the Castle of Perote and confined therein, and the survivors of Deaf Smith's spy company) an annual pension of one hundred and fifty dollars, from and after the first day of July, 1874, for and during their natural lives, payable semi-annually on the first day of January and the first day of July of each year; and in all cases where any such person shall have been permanently disabled by reason of wounds received in actual service, or who may be now disabled by loss of sight, or limb, from any cause, there shall be and is hereby granted to him an additional pension of one hundred and fifty dollars for the same time and upon the same terms.

Sec. 2. That to any one, to whom a certificate shall have been issued by the Comptroller of Public Accounts, showing that he is entitled to a pension under the provisions of "An Act granting pensions to the surviving veterans of the revolution which separated Texas from Mexico," approved August 13, 1870, shall be evidence of the right of such person to all arrearages of pension up to the first day of July,

1874, and to a pension under this act; provided, that the provisions of section eleven of this act shall apply to the same.

Sec. 3. In all cases where pension certificates have not heretofore been issued under said act of August 13, 1870, it shall be the duty of the Comptroller of Public Accounts to issue pension certificates to every person still living who may have served as a volunteer, or as a regular soldier, in the military service of Texas at any time between the first day of January, 1832, and the fifteenth day of October, 1836, and to every person still living who was made a prisoner in the Santa Fe or in the Mier expedition, and the survivors of the company of Captain Dawson, who was massacred near San Antonio in the year 1842, and the survivors of those who were captured at the city of San Antonio in the fall of the year 1842, and taken to the Castle of Perote, and confined therein, and the survivors of Deaf Smith's spy company, upon the evidence prescribed in the next succeeding section of this act; provided, however, that but one pension certificate shall be issued to any person.

Sec. 4. When it shall be made to appear from the public archives and records of the State that the applicant has received an honorable discharge from the military service of Texas, signed by the commanding officer of his company or regiment, for services rendered between the first day of January, 1832, and the 15th day of October, 1836, or that he has received a bounty, or donation warrant of land for military service rendered between the first day of January, 1832, and the fifteenth day of October, 1836, the proof shall be sufficient to authorize the issue of a pension certificate under this act; provided, that said bounty or donation warrant was not illegally issued. When it shall appear from the public archives or records of the State that any person has been paid for his services while a prisoner in the Santa Fe, or in the Mier expedition, or while in prison as one of the persons captured at the city of San Antonio in the Fall of 1842, it shall be sufficient to authorize the issue of a pension certificate. When the foregoing proof cannot be made, the applicant shall prove by his own affidavit, the place of his birth, his age, the time of his immigration to Texas, the company in which he served, and that he served and participated in some one or more of the battles fought in behalf of the people of Texas, between the first day of January, 1832, and the fifteenth day of Octo-

ber, 1836, or that he was made a prisoner in the Santa Fe or in the Mier expedition, or that he is one of the survivors of the company commanded by Captain Dawson, who was massacred near San Antonio in the year 1842, or that he is a survivor of those who were captured at the city of San Antonio in the Fall of the year 1842, and taken to Perote and confined therein; or that he is a survivor of Deaf Smith's spy company; and the fact of service and participation in any of said battles shall also be proved by the affidavits of two credible persons who were in the same battle, or were in the same expedition; and the fact of having been made a prisoner shall also be proved by the affidavits of two credible persons who served in the same expedition, or who were made prisoners at the same time.

Sec. 5. In all cases where an application for a pension and the evidence in support thereof, was filed in the Comptroller's office before the first day of July, 1874, under said act of the thirteenth of August, 1870, and such application and evidence would be sufficient, under this act, to authorize the issuance of a pension certificate, the Comptroller shall issue to the applicant, if still living, a pension certificate, which shall entitle him to all arrearages of pension under said act of thirteenth of August, 1870, up to the first day of July, 1874, and also to a pension under this act; but if the applicant be not living, and left at his death a surviving wife, or descendants, the Comptroller, upon proof to his satisfaction of the time of death, and that the applicant left a surviving wife or descendants, shall issue a certificate, stating the amount of arrearages of pension under said act of thirteenth of August, 1870, due said applicant at his death, or before the first of July, 1874, and the amount, if any, due him under this act, which shall be payable to the surviving wife, if living, but if not, then to his descendants.

Sec. 6. In cases where the evidence filed with an application in the Comptroller's office before the first day of July, 1874, for a pension under said act of thirteenth of August, 1870, was not deemed sufficient to authorize the issuance of a pension certificate, or when no application has been made prior to the first day of July, A. D. 1874, by any person entitled to receive the same under this act, the applicant shall have the right to supply or furnish the evidence required to obtain a certificate under this act, and upon doing so, he shall have the same rights under this act

as he would have had if said evidence had been filed with his original application.

Sec. 7. All arrearages of pension due under said act of thirteenth of August, 1870, up to the first day of July, 1874, shall be payable in bonds of the State of Texas of the denomination of one hundred dollars, and transferable, drawing interest at the rate of ten per centum per annum, interest payable semi-annually, on the first day of January and the first day of July of each year; which bonds shall be payable twenty years after date, but redeemable at the pleasure of the State after five years from date. They shall be signed by the Governor and Treasurer, and shall be countersigned and registered by the Comptroller; and the Governor shall cause to be printed a sufficient amount of bonds to pay said arrearages, and to pay all fractional sums less than one hundred dollars.

Sec. 8. When any person has died, or may hereafter die before the receipt of any pension due him under this act, the amount due at the time of the death of the pensioner, shall be paid to his surviving wife, if he left one, but if not, then to his surviving descendants, if any there be.

Sec. 9. Before the payment of any arrearages of pensions that accrued prior to the first of July, 1874, the person claiming the same shall give credit for all sums he may have received under the appropriation heretofore made for the payment of pensions under said act of the thirteenth of August, 1870.

Sec. 10. The identity of all applicants for pension certificates shall be proved by the affidavits of the applicant, and of two credible witnesses.

Sec. 11. The proof of having received a wound while in actual service shall be made by the affidavits of the applicants and of two other persons who were in the engagement or in the expedition at the time when the wound was received; and the proof of permanent disability shall be made by the affidavits of two physicians of good reputation; and the provisions of this section shall apply to all persons claiming a pension and having received wounds.

Sec. 12. The production of a pension certificate recognized by this act, and proof by the affidavits of two credible witnesses, of the identity of the party to whom it was issued, will be a sufficient authority for the Comptroller of Public Accounts to draw a treasury warrant in favor of the party entitled to payment under this act.

Sec. 13. An Act entitled "An Act granting pensions to the surviving veterans of the revolution which separated Texas from Mexico," approved August 13, 1870, be and is hereby repealed; but this repeal shall not effect the right of any person entitled to a pension under said act, with the eleventh section of this act applying thereto, to receive the arrearages of pension due under the same, in accordance with the provisions of this act.

Sec. 14. No person for a period of time later than the first day of July, 1874, shall be paid under the provisions of this act, unless the holder of a pension certificate, shall prove to the satisfaction of the county court of the county in which he resides, that he has not sufficient property, without the aid of such pension; which proof shall be forwarded to the Comptroller; and the State of Texas, in recognition of the gallant deeds and services rendered by the Patriots that fought for the independence of Texas, hereby dedicates a silver medal to each and every soldier who participated in the battles for independence; and the Comptroller is hereby directed to cause the manufacturing of said silver medals. The medal on one side to have the name of the veteran, company and regiment, and on the other side a Lone Star of Texas.

Sec. 15. That the sum of five hundred dollars, or so much thereof as may be necessary, be and is hereby appropriated out of any money in the Treasury, not otherwise appropriated, to pay the expense of preparing said bonds. That the bonds herein provided for shall be exempt from attachment, garnishment and forced sale so long as they remain in the hands of the original owners.

Sec. 16. This act shall take effect from and after its passage.

Approved April 21, 1874.

CHAPTER XCIII.

An Act to Repeal an Act entitled "An Act to authorize counties, cities and towns to aid in the Construction of Railroads and other works of internal improvements," approved April 12, 1871.

Section 1. Be it enacted by the Legislature of the State of Texas, That an act entitled "An Act to authorize

counties, cities and towns to aid in the construction of railroads and other works of internal improvements," approved April 12, 1871, be and the same is hereby repealed; provided, that the counties of Comal, Bexar, Kendall, Bandera, Mason, Menard, Atascosa, Edwards, Wilson, Gillespie, Kerr, and Kemball shall be excepted out of the provisions of this act, and the said act hereby repealed shall remain in force as to said counties.

Approved April 22, 1874.

CHAPTER XCIV.

An Act to repeal section thirty and section thirty-one of "An Act to organize the Courts of Justices of the Peace and County Courts, and to define their jurisdiction and duties," approved August 13, 1870.

Section 1. Be it enacted by the Legislature of the State of Texas, That sections thirty and thirty-one of "An Act to organize the courts of justices of the peace and county courts, and to define their jurisdiction and duties," approved August 13, 1870, be and the same are hereby repealed.

Sec. 2. That this act shall take effect and be in force from and after its passage.

Approved April 23, 1874.

CHAPTER XCV.

An Act to add the County of Waller to the Twenty-ninth Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas, That the county of Waller is hereby attached to the Twenty-ninth Judicial District, and henceforth shall constitute a part of said district.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved April 23, 1874.

CHAPTER XCVI.

An Act to amend the fourth section of an Act entitled "An Act to provide for the publication of the decisions of the Supreme Court, and the appointment of a Reporter thereof," approved November 12, 1866.

Section 1. Be it enacted by the Legislature of the State of Texas, That section four of the above entitled act be so amended as to read as follows: "Sec. 4. The reporter shall be entitled to receive in payment for the four hundred copies of each volume, delivered as aforesaid, the following compensation, viz: the sum of three dollars per page, for as many pages as shall be contained in one copy of each volume so delivered; provided, that if the reporter charge the profession over six dollars per volume he shall be removed from office by the Supreme Court."

Sec. 2. That this act shall take effect and be in force from and after its passage.

Approved April 23, 1874.

CHAPTER XCVII.

An Act concerning Private Corporations.

Article I.

Section 1. Be it enacted by the Legislature of the State of Texas, That corporations are either, first, public; or, second, private.

Sec. 2. A public corporation is one that has for its object the government of a portion of the State.

Sec. 3. Private corporations are of three kinds; first, religious; second, corporations for charity or benevolence; and, third, corporations for profit.

Article II.—Creation of Corporations.

Sec. 4. Private corporations may be created by the voluntary association of three or more persons, for the purpose and in the manner mentioned in the following sections of this article.

Sec. 5. The purposes for which the corporations mentioned in the last section may be formed, are:

1. The support of public worship.
2. The support of any benevolent, charitable, educational, or missionary undertaking.
3. The support of any literary or scientific undertaking, the maintenance of a library, or the promotion of painting, music, or other fine arts.
4. The encouragement of agriculture and horticulture.
5. The maintenance of public parks, and of facilities for skating and other innocent sports.
6. The maintenance of a public or private cemetery.
7. The purchase, location and subdivision of lands, and the sale and conveyance of the same, in lots and subdivisions or otherwise.
8. The construction and maintenance of any species of road, except a railroad, and of bridges in connection therewith.
9. The construction and maintenance of a bridge.
10. The construction and maintenance of a telegraph line.
11. The establishment and maintenance of a ferry.
12. The establishment and maintenance of a line of stages.
13. The building and navigation of steamboats, and carriage of persons and property thereon.
14. The supply of water to the public.
15. The manufacture and supply of gas, or the supply of light, or heat, to the public by any other other means.
16. The transaction of any manufacturing, mining, mechanical, or chemical business.
17. The transaction of a printing and publishing business.
18. The establishment and maintenance of a hotel.
19. The erection of buildings, and the accumulation and loan of funds for the purchase of real property.
20. The improvement of the breed of domestic animals by importation, sale, or otherwise.
21. The transportation of goods, wares and merchandise, or any valuable thing.
22. The promotion of immigration.
23. The construction and maintenance of sewers.
24. The construction and maintenance of a street railway.
25. The erection and maintenance of market houses and market places.

26. The construction and maintenance of canals for the purpose of irrigation, or manufacturing purposes.

27. For any other purpose intended for mutual profit or benefit not otherwise especially provided for, and not inconsistent with the Constitution and laws of this State.

Sec. 6. A charter must be prepared setting forth—

1. The name of the corporation.
2. The purpose for which it is formed.
3. The place or places where its business is to be transacted.
4. The term for which it is to exist.
5. The number of its directors or trustees, and the names and residences of those who are appointed for the first year; and,
6. The amount of its capital stock, if any, and the number of shares into which it is divided.

Sec. 7. The charter of a road company must also state:

1. The kind of a road intended to be constructed.
2. The places from and to which the road is intended to be run.
3. The counties through which it is intended to be run.
4. The estimated length of the road.
5. The charter of a bridge or ferry company shall also state the stream intended to be crossed by the bridge or ferry.

Sec. 8. The charter of an intended corporation must be subscribed by three or more persons, two of whom, at least, must be citizens of this State, and must be acknowledged by them before an officer, duly authorized to take acknowledgements of deeds.

Sec. 9. Such charter shall thereupon be filed in the office of the Secretary of State, who shall record the same, at length, in a book to be kept for that purpose, and retain the original on file in his office. A copy of the charter, under the great seal of the State, shall be evidence of the creation of the corporation.

Sec. 10. The existence of the corporation shall date from the filing of the charter in the office of the Secretary of State, and the certificate of the Secretary of State shall be evidence of such filing. Any corporation organized under the provisions of this act, or entitled to organize under the provisions of this act, or any private corporation or company incorporated by special act of the Legislature, which said company or corporation would have been authorized to

incorporate itself under the provisions of this act, any such company or association or corporation may amend or change their articles of incorporation or their act of incorporation in the same manner that this act requires for the original organization of a body corporate, to-wit: by filing, authenticated, as by this act required, the amendments or changes to the original charter with the Secretary of State; and in case of a corporation created by special act of the Legislature, said corporation shall cause the changes or amendments to their charter to be authenticated as required by this act, and filed with the Secretary of State, together with their original charter, or such amendments as have been made by special act; which shall be recorded by the Secretary of State, followed by the proposed changes or amendments to same; such changes or amendments shall take effect and be in force from the date of filing with the Secretary of State. No amendments or changes, violative of the Constitution or laws of this State, or of this act, shall be of any force or effect; and no changes or amendments shall be of any force and effect which are not germane to the original objects or charter of incorporation, and calculated to carry out and effect the same. All charters, or amendments to charters under the provisions of this act, shall be subject to the power of the Legislature to alter, reform, or amend the same.

Article III.—Powers and Duties of Corporations.

Sec. 11. Every corporation, as such, has power: first, to have succession by its corporate name for the period limited, for twenty years.

2. To maintain and defend judicial proceedings.
3. To make and use a common seal.
4. To hold, purchase, sell, mortgage, or otherwise convey such real and personal estate as the purposes of the corporation shall require, and also to take, hold and convey such other property, real, personal or mixed, as shall be requisite for such corporation to acquire in order to obtain or secure the payment of any indebtedness or liability due to or belonging to the corporation.
5. To appoint and remove such subordinate officers and agents as the business of the corporation shall require, and to allow them a suitable compensation.
6. To make by-laws not inconsistent with existing

laws for the management of its property, the regulation of its affairs, and the transfer of its stock.

7. To enter into any obligation or contract essential to the transaction of its ordinary affairs.

8. To increase or diminish, by a vote of its stockholders, cast as its by-laws may direct, the number of its directors or trustees, to be not less than three nor more than thirteen.

Sec. 12. Any corporation may increase its capital stock to any amount not exceeding double the amount of their authorized capital, by a vote of the stockholders, in conformity with the by-laws thereof; and if a majority of the stockholders shall vote for the increase of the stock, the same may be increased by the board of directors, trustees, or other business managers of such corporation and upon such increase of stock being made in accordance with the by-laws, the date and amount of such increase shall be certified to the Secretary of State by the directors or trustees, and from the time such certificate is filed the increase of stock shall become a part of the capital thereof. Such certificate shall be filed and recorded in the same manner as the charter.

Sec. 13. Corporations shall have power to borrow money on the credit of the corporation, not exceeding its authorized capital stock, and may execute bonds or promissory notes therefor, and may pledge the property and income of the corporation.

Sec. 14. Whenever the full amount of the capital stock of a corporation having a capital stock shall not have been already subscribed in good faith, the directors or trustees named in the charter, or a majority of them, may, within three months after the filing of the charter, cause books to be opened for receiving subscription to the capital stock of the corporation, at such time or times, and at such place or places as they may determine, after having given at least thirty days' notice in a newspaper published or generally circulated in one or more counties where books of subscription are to be opened, of the time and place of opening books, which books may be kept open till the whole amount of capital stock is subscribed.

Sec. 15. A majority of the directors or trustees shall constitute a quorum, and be competent to fill vacancies in the board, and to transact all business of the corporation. An annual election shall be held for directors or trustees,

at such time and place as the by-laws of the corporation may require.

Sec. 16. The directors or trustees shall choose one of their number president, and shall appoint a secretary and treasurer, and such other officers as they may deem necessary for the corporation.

Sec. 17. The directors or trustees may adopt by-laws for the government of the corporation; but such by-laws may be altered, changed or amended by a majority vote of the stockholders at any election or special meeting ordered for that purpose by the directors or trustees, on a written application of a majority of the stockholders or members.

Sec. 18. All corporations heretofore created and now in existence under any law of this State, are hereby authorized to increase the number of directors or trustees of any such corporation.

Sec. 19. In case it should happen that an election for directors or trustees should not be held on the day appointed by the by-laws of any corporation formed under the provisions of this act, such corporation shall not, for that reason, be deemed to be dissolved, but it shall be lawful on any other day to hold a meeting and elect its directors or trustees in such manner as shall be prescribed by the by-laws thereof.

Sec. 20. The secular affairs of a religious corporation shall be under the control of a board of trustees, to be elected by the members of such corporation, and the title to all property of any such corporation shall vest in such trustees.

Sec. 21. The directors or trustees shall have the general management of the affairs of the corporation, and may dispose of the residue of the capital stock at any time remaining unsubscribed, in such manner as the by-laws may prescribe. They shall cause a record to be kept of all stock subscribed and transferred, and of all business transactions, and their books and records shall, at all reasonable times, be open to the inspection of any and every stockholder. They shall, also, when required by one-third of the stockholders thereof, present reports in writing of the situation and amount of business of the corporation, and declare and make such dividends of the profits from the business of the corporation as they shall deem expedient, or as the by-laws may prescribe.

Sec. 22. Any corporation heretofore organized and now in existence under any general or special law of the Republic of the State of Texas may, by a vote of its board of directors, accept any or all the provisions of this act, and have and exercise all the rights, power and privileges conferred by this act, by filing a copy of their acceptance with the Secretary of State; whereupon, that portion of their charter inconsistent with this act, or the portion accepted, shall cease to be applicable to such corporation; and they shall have the exclusive right to carry out the objects of said corporation, as described in their act of incorporation or certificate filed with the Secretary of State, if acting under a general law within the limits or boundaries described in said act of incorporation, or certificate, as the case may be, without any limitation as to time, and shall possess all the privileges and franchises conferred by their act of incorporation or certificate filed with the Secretary of State, not abandoned in the copy of acceptance of any or all the provisions of this act.

Sec. 23. No corporation created under the provisions of this act shall employ its stock, means, assets, or other property, directly or indirectly, for any other purpose whatever, than to accomplish the legitimate objects of the creation.

Sec. 24. The stock of any corporation created under this act shall be deemed personal estate; and shall be transferable only on the books of the corporation in such manner as the by-laws may prescribe.

Sec. 25. The board of directors or trustees of any corporation may require the subscribers to the capital stock of the corporation to pay the amount by them respectively subscribed, in such manner and in such installments as may be required by the by-laws.

Sec. 26. If any stockholder shall neglect to pay any installment, as required by the board of trustees, the directors or trustees may declare his stock and all previous payments forfeited to the use of the company; but no stock shall be forfeited until the directors or trustees have caused a notice in writing to be served on him personally, or by depositing the same in the post-office, properly directed to him at the post-office nearest his usual place of residence, stating that he is required to make such payment at the time and place specified in said notice, and that if he fails to make the same, his stock and all previous pay-

ments thereon will be forfeited for the use of the company; which notice may be served, as aforesaid, at least thirty days previous to the day on which such payment is required to be made.

Sec. 27. All bodies corporate may sue for, recover and receive from their respective members, all arrears or other debts, dues or other demands, which now are or hereafter may be owing to them, in like mode, manner and form, as they might sue for, recover and receive the same from any person who might not be one of their body.

Sec. 28. If the directors of any corporation shall knowingly declare and pay any dividend, when the corporation is insolvent, or any dividend the payment of which would render it insolvent, they shall be jointly and severally liable for all the debts of the corporation then existing, and for all that shall be thereafter contracted, as long as they shall respectively continue in office. The amount for which they shall all be so liable shall not exceed the amount of such dividend; and if any of the directors shall be absent at the time of making the dividend, or shall object thereto at the time such dividend is declared, and shall file their objection in writing with the secretary or other officer of the corporation having charge of the books, they shall be exempted from the said liability.

Article IV.—Miscellaneous Provisions.

Sec. 29. If any execution shall have been issued against property or effects of a corporation, except a railway or a religious or charitable corporation, and there cannot be found any property whereon to levy such execution, then the execution may be issued against any stockholder to an extent equal to the amount of stock unpaid; but no execution shall issue against any stockholder except upon an order of the court in which action, suit, or other proceeding shall have been brought or instituted, made upon motion in open court, after reasonable notice in writing to the person or persons sought to be charged; and upon such motion, such court may order execution to issue accordingly; or the plaintiff in execution may proceed by action to charge the stockholders with the amount of his judgment, in accordance with the liability of the stockholders, as contemplated under this section and under Section 41 of Article 5 of this act.

Sec. 30. The clerk or other officer having charge of the books of any corporation, on demand of the plaintiff in any execution against the corporation, his agent or attorney, shall furnish such plaintiff, his agent or attorney with the names and places of residence of the stockholders (so far as known), and the amount of stock held by each, as shown by the books of the corporation.

Sec. 31. Each corporation or joint stock company, of every description, whether organized and acting under a special charter or general law of the State, shall keep its principal office within this State.

Sec. 32. No misnomer of any corporation shall defeat or vitiate any gift, grant, conveyance, devise or bequest to the same.

Sec. 33. Any corporation may convey lands by deed, sealed with the common seal of the corporation, and signed by the president or the presiding member or trustee of said corporation; and such deed, when acknowledged by such officer to be the act of the corporation, or proved in the manner prescribed for other conveyances of lands, may be recorded in like manner and with the same effect as other deeds.

Sec. 34. The records of any company incorporated under the provisions of any statute of this State, or copies thereof duly authenticated by the signature of the president and secretary of such company, under the corporate seal thereof, shall be competent evidence in any action or proceeding to which such corporation may be a party.

Article V.—Dissolution of Corporations.

Sec. 35. A corporation is dissolved: first, by the expiration of the time limited in its charter; second, by a judgment of dissolution rendered by a court of competent jurisdiction.

Sec. 36. Every corporation created under this act or any general law of this State, shall commence active operations within three years after filing its charter with the Secretary of State, and in default thereof said corporation shall be dissolved and its charter become void.

Sec. 37. Upon the dissolution of any corporation already created by or under the laws of this State, unless a receiver is appointed by some court of competent authority, the president and directors or managers of the affairs

of the corporation at the time of its dissolution, by whatever name they may be known in law, shall be trustees of the creditors and stockholders of such corporation, with full power to settle the affairs, collect the outstanding debts, and divide the moneys and other property among the stockholders, after paying the debts due and owing by such corporation at the time of its dissolution, as far as such money and property will enable them; and for this purpose they may maintain or defend any judicial proceeding.

Sec. 38. The trustees mentioned in the last section shall be severally responsible to the creditors and stockholders of such corporation to the extent of its property and effects that shall have come into their hands.

Sec. 39. If any corporation created under this or any general statute of this State, except railway, or charitable or religious corporations, be dissolved, leaving debts unpaid, suits may be brought against any person or persons who were stockholders at the time of such dissolution, without joining the corporation in such suit, and if judgment be rendered and execution satisfied, the defendant or defendants may sue all who were stockholders at the time of dissolution for the recovery of the portion of such debt for which they were liable, and the execution upon the judgment shall direct the collection to be made from property of each stockholder respectively; and if any number of stockholders (defendants in the case) shall not have property enough to satisfy his or their portion of the execution, then the amount of deficiency shall be divided equally among all the remaining stockholders, and collections made accordingly, deducting from the amount a sum in proportion to the amount of stock owned by the plaintiff at the time the company dissolved.

Sec. 40. If any stockholder pay more than his due proportion of any debt of the corporation, he may compel contribution from the other stockholders by action.

Sec. 41. No stockholder shall be liable to pay debts of the corporation beyond the amount unpaid on his stock.

Article VI.—Macadam and Plank Road Corporations.

Sec. 42. It shall be lawful for any corporation created for the purpose of constructing a macadam or plank road,

by its agents and servants, to enter upon any lands, to make surveys, estimates and locations.

Sec. 43. If any such corporation shall require for the construction or repairs of its road, or any bridge thereof, any stone, timber, or other material, from land adjoining to or near said road, and cannot contract for the same with the owner thereof, such corporation may proceed to have the value of the same assessed, and the same proceedings shall be had therefor as is provided by law to be taken by railway corporations in like cases; and all macadam or plank road corporations shall have the right also to condemn, in like manner, and occupy any quantity of land, not exceeding one acre at any one place, for the purpose of erecting toll houses thereon.

Sec. 44. If any road, on any part thereof, after it shall have been completed, shall be suffered to be out of repair so as to be impassable for the space of two months, unless when the same is being repaired, the company owning such road shall be liable to forfeit its corporate powers and privileges, and such forfeiture may be enforced by action, as provided in the Code of Civil Procedure: and if such company shall suffer the road to be out of repair to the injury, hindrance or delay of travelers for an unreasonable time, they shall have no right to collect tolls thereon until the same is again repaired.

Sec. 45. All macadam or plank roads shall be open not exceeding sixty feet wide, thirty feet of which shall be cleared of brush and logs, and at least sixteen feet shall be made an artificial road composed of stone or gravel, or wood, or other convenient material, in such manner as to secure a firm and substantial road. No company or association of individuals which have been or may hereafter be incorporated, for the purpose of making such road, shall erect or keep any toll gate or receive any toll within the corporate limits of any incorporated city, town, or village, or within one hundred and sixty rods of such limits.

Sec. 46. As soon as such road shall have been completed, or any part thereof, not less than five miles together in any part of the road, unless the same is less than five miles long, and so from time to time, as often as five miles in addition shall be completed adjoining any five miles previously constructed, the county court of the county in which such finished road lies, or, in case the road lies in two or more counties, the county courts of either of said

counties shall, on application of the agent of the company, appoint three judicious householders, who shall, on oath, examine the same, and report their opinion to the court in writing; and if such report shall state that the road, or such part thereof, to be completed agreeably to the provisions of this act, the court shall by license, in writing, authorize the company to erect gates at suitable distances and demand and receive of persons traveling such road the toll that may be fixed by the county court.

Sec. 47. Any person or persons going to or from public worship on the Sabbath, common schools, or other institutions of learning, funerals, militia muster, the troops of the United States, and of this State, may pass any such road free from toll.

Sec. 48. All macadam or plank road companies shall put up a post or stone at the end of each mile, with the number from the beginning of said road, fairly cut or printed thereon; and also in a conspicuous place near each gate shall be placed a board with the rates of toll printed or painted thereon, and no toll shall be demanded unless such rates are kept up.

Sec. 49. If any macadam or plank road company shall fail to keep their road in repair for five days successively, any person may file a complaint in writing, before any justice of the peace of the county, setting forth the nature of the defect complained of, designating the place in the road where it exists; and it shall be the duty of the justice to appoint two disinterested persons as inspectors, to meet at the place complained of; within five days, and of the time and place of meeting reasonable notice shall be given to the gate keeper nearest to the place of meeting, and the inspectors shall then examine into the truth of the matter complained of; and if they shall find the complaint to be true, they shall send a certified copy of the complaint and of the finding thereon to the keeper of each of the gates between which such defective place shall be, and thereafter no toll shall be received at such gates for the intermediate distance, until the part of the road complained of shall be fully repaired; and the inspectors and justice of the peace shall be entitled to two dollars and a half per day for their services, and shall be paid by the company if the complaint be sustained, and if it shall fail, then by the complainant.

Sec. 50. If any person or persons using any part of said road shall, with intent to defraud such company, or

shall falsely represent himself or herself to any toll gatherer as entitled to exemption from paying toll, or shall make any untrue statement as to the distance he or they have traveled or intend to travel on the road, or shall practice any fraudulent means, and thereby lessen or avoid the payment of tolls, each and every person concerned in any such fraudulent practices shall, for every such offense, forfeit and pay such company the sum of five dollars, to be recovered by such company in an action of debt before any justice of the peace of the county where the offender may be found.

Article VII.—Telegraph Corporations.

Sec. 51. Corporations created for the purpose of constructing and maintaining magnetic telegraph lines are authorized to set their poles, piers, abutments, wires, and other fixtures, along, upon and across any of the public roads, streets, and waters of this State, in such manner as not to incommode the public in the use of such roads, streets, and waters.

Sec. 52. Such companies are also authorized to enter upon any lands, whether owned by private persons in fee or in any less estate, or by any corporation, whether acquired by purchase or by virtue of any provision in the charter of such corporation, for the purpose of making preliminary surveys and examinations with a view to the erection of any telegraph lines, and from time to time to appropriate so much of said lands as may be necessary to erect such poles, piers, abutments, wires, and other necessary fixtures for a magnetic telegraph, and to make such changes of location of any part of said lines as may from time to time be deemed necessary, and shall have a right of access to construct said line, and when erected, from time to time as may be required to repair the same, and may proceed to obtain the right of way, and to condemn lands for the use of the corporation, in the manner provided by law in case of railway corporations.

Sec. 53. No corporation shall have power to contract with any owner of land for the right to erect and maintain a telegraph line over his lands to the exclusion of the lines of other companies.

Sec. 54. Any corporation, created as herein provided, may contract, own, use, and maintain any line or lines of tele-

graph, whether wholly within, or wholly or partly beyond, the limits of this State, and shall have power to lease or attach to the line or lines of such corporation other telegraph lines, by lease or purchase, and may join with any other corporation or association in constructing, leasing, owning, using, or maintaining their line or lines upon such terms as may be agreed upon between the directors or managers of the respective corporations, and may own and hold any interest in such line or lines, or may become lessees thereof on such terms as the respective corporations may agree.

Sec. 55. The council of any city, or trustee of any incorporated town or village, through which the line of any telegraph corporation is to pass, may, by ordinance or otherwise, specify where the posts, piers, or abutments, shall be located, the kind of posts that shall be used, the height at which the wires shall run, and such company shall be governed by the regulations thus prescribed; and after erection of said telegraph lines, the council of any city, or the trustees of any incorporated town or village, shall have the power to direct any alteration in the erection or location of said posts, piers, or abutments, and also in the height at which the wires shall run, having first given such company or its agents opportunity to be heard in regard to such alteration.

Sec. 56. Any person who shall wilfully and intentionally injure, molest, or destroy, any of the lines, post, piers, abutments, or other material, or property pertaining to any line of telegraph erected in this State, shall be deemed guilty of a misdemeanor, and shall, upon conviction in the court having criminal jurisdiction in the proper county, be punished by fine not exceeding five hundred dollars, or by imprisonment in the county jail, not exceeding one year, or by both; such fine and imprisonment at the discretion of the court having cognizance thereof.

Sec. 57. Any telegraph company now organized, or which may hereafter be organized under the laws of this State, may, at any regular meeting of the stockholders thereof, by vote of persons holding a majority of shares of the stock of such company, unite or consolidate with any other company or companies now organized, or which may hereafter be organized under the laws of the United States, or of any State or territory, by the consent of the company with which it may consolidate or unite; and such company

so formed may hold, use, and enjoy, all the rights and privileges conferred by the laws of Texas on companies separately organized under the provisions of this act, and be subject to the same liabilities.

Article VIII.—Appropriation of Lands for the Use of Railway and Other Corporations.

Sec. 58. Every canal corporation for the purpose of irrigation shall, in addition to the powers heretofore conferred, have power:

1. To cause such examination and survey for its proposed canal to be made as may be necessary to the selection of the most advantageous route, and for such purpose by its officers, agents or servants to enter upon the lands or waters of any person.

2. To take and hold such voluntary grant of real and other property as shall be made to it to aid in the construction and maintenance of its canal, ditches and sluices.

3. To construct its canal across, along or upon any stream of water.

4. To furnish water for irrigation at such rates as such organization or corporation may by its by-laws and regulations prescribe.

5. To borrow such sums of money as may be necessary for completing and finishing or operating their canal, and to issue and dispose of their bonds for any amount so borrowed, and to mortgage their corporate property and franchises to secure the payment of any debt contracted by the operation for the purposes aforesaid; provided, that damages for any property appropriated by such corporation shall be assessed and paid for as is provided for in case of railroads.

Article IX.—Gas and Water Corporations.

Sec. 59. Any gas or water corporation shall have full power to manufacture and sell and to furnish such quantities of gas or water as may be required by the city, town or village where located, for public or private buildings or for other purposes, and such corporation shall have power to lay pipes, mains and conductors for conducting gas or water through the streets, lanes, alleys and squares in such

city, town or village, with the consent of the municipal authorities thereof, and under such regulations as they may prescribe.

Sec. 60. The municipal authorities of any city, town, or village in which any gas light or water corporation shall exist, are hereby authorized to contract with any such corporation for the lighting or supplying with water the streets, lots, lanes, squares, and public places in any such city, town or village.

Article X.—Colleges, Academies, &c.

Sec. 61. The president, professors or principals shall constitute the faculty in academy, college or university, and shall have power to enforce the rules and regulations enacted by the directors or trustees for the government and discipline of the students, and to suspend and expel offenders, as may be deemed necessary.

Sec. 62. The directors or trustees named in the charter, as required by this act, of any college, academy, university or other institution to promote education, and their successors, may make all necessary by-laws, elect and employ officers, provide for filling vacancies, appoint and remove professors, teachers, agents, &c., and fix their compensation, confer degrees, and do and perform any and all necessary acts to carry into effect the objects of the corporation.

Sec. 63. Such corporations may procure, to be used as a part of education, shops, tools and machinery, land for agricultural purposes, and necessary buildings for carrying on their mechanical and agricultural operations.

Sec. 64. Any such corporation may convert its property, except when held upon some special trust, into stock or scholarships, and file a certificate of their action, as required in the case of an increase of capital stock of a corporation. Such conversion can only take place by the consent of a majority of the stockholders.

Sec. 65. The directors of any such corporation, whose property is held not as stock, but upon trust or by devise, donation, gift or subscription, shall not contract debts beyond the means of the corporation. If they do contract debts to a larger amount, they shall be held individually liable for the same, after the means of the corporation are exhausted.

Sec. 66. Any such corporation may, by a vote of three-fourths of the stockholders, change the location and name of the institution, and transfer the effects thereof to where removed, or may apply the property thereof to other purposes of education than those named in the original charter filed with the Secretary of State.

Article XI.—Religious, Charitable, and Other Corporations.

Sec. 67. Any religious society, military or fire company, literary, social, charitable, or benevolent association, other than colleges, universities, academies, or seminaries, or any grand or subordinate lodge, or other order of Free and Accepted Masons, or of the Independent Order of Odd Fellows, may, by the consent of a majority of its members, become bodies corporate under this act, electing directors or trustees, and performing the things as are directed in the case of other corporations; and, when so organized, shall have all the powers and privileges and be subject to all the restrictions in this act contained for the objects named in the charter, and shall have the same power to make by-laws for the regulation of their affairs as other corporations. Such directors or trustees shall not usurp or exercise the functions of the officers in charge of the spiritual affairs of any society.

Sec. 68. No religious, literary, social, scientific, industrial, benevolent, or other society, association, company, corporation, or institution, that does not have a capital stock, will be required in its charter to make any statement of the amount of capital stock or amount of each share; but such charter, if it contains the other statements therein required, and also an estimate of the value of the goods, chattels, lands, rights and credits owned by the corporation will be sufficient.

Article XII.—Cemetery Corporations.

Sec. 69. Cemetery corporations shall have power to divide the land of the cemetery into lots and subdivisions for the purposes of the cemetery, and to tax the property for the purpose of its general improvement.

Sec. 70. Such corporation shall have power to convey, by deed or otherwise, any lot or lots of the cemetery for

purposes of sepulture. When such lots shall have been surveyed and platted, the survey and plat shall be recorded in the office of the district clerk of the county wherein the same are situated, and shall not be afterwards changed or altered. No lots shall be sold or disposed of until such plat shall have been recorded. All the ground held by such corporation for burial purposes, while so held, shall be exempt from public taxation. Every lot sold and conveyed in such cemetery shall be held by the proprietor for purposes of sepulture only, and shall not be subject to attachment or execution.

Sec. 71. All owners of lots purchased of any such corporation shall become members thereof and be entitled to vote in the election of its officers and upon any other matters to the same extent as stockholders in other corporations.

Article XIII.—Savings Banks.

Sec. 72. Any five or more persons in any county in this State may organize themselves into a savings association, and shall be permitted to carry on the business of receiving money on deposit, and to allow interest thereon, giving to the persons depositing credit therefor; and of buying and selling exchange, gold, silver, coin, bullion, uncurrent money, bonds of the United States, of the State of Texas, and of the city, county, and school district, in which any association shall organize; of loaning money on real estate and personal security at such rate of interest as may be agreed upon; and of discounting negotiable notes and notes not negotiable; and on all loans made may keep and receive the interest in advance.

Sec. 73. The capital stock of any such association shall be not less than fifty thousand nor more than five hundred thousand dollars, to be divided into shares of not less than one hundred dollars each, of which ten per centum upon each share shall be paid at the time the same shall be subscribed; the remainder of the stock so subscribed shall be paid upon such calls and upon such terms as the directors may from time to time prescribe.

Sec. 74. The affairs and business of any such association shall be managed and controlled by a board of directors, not less than five nor more than nine in number, who shall designate a president, a cashier, and a secretary, and such

other officers as the association may require, who shall hold their office for one year, or until their successors are elected and duly qualified.

Sec. 75. Before any such corporation shall commence its business, a majority of the shares thereof shall have been subscribed for, and the entrance fees thereon paid in, and the president and secretary thereof under their hands and seals, shall have made a certificate which shall specify, first, the corporate name of such corporation; second, the name of the city or town in which such incorporation is to be located; third, the amount of its capital stock and the number of shares in which the same shall be divided; fourth, the names and places of residence of the stockholders and the number of shares held by each; fifth, the time when such corporation was organized; which certificate shall be acknowledged before a notary public and recorded in the registry of deeds for the county in which such corporation is to be located, and a copy thereof, and of the by-laws of the said association, shall be filed in the office of the Secretary of State, and copies of such certificates, duly attested by the clerk of the district court or Secretary of State, shall be admitted as sufficient evidence in all the courts of law and on all occasions whatever; provided, however, that no corporation established under the provisions of this charter shall take the name of any corporation or association heretofore organized or incorporated in this State for similar purposes.

Sec. 76. Every such corporation shall semi-annually, in the months of July and January, publish in one or more newspapers in the county where such corporation shall have its place of business, a statement verified by the oath of its president or secretary, setting forth its actual financial condition, and the amount of its property and liabilities, under a penalty of five hundred dollars to the State, to be recovered by indictment against the president, cashier or directors, and shall also deposit a copy of said statement, verified as aforesaid, in the office of the Secretary of State.

Sec. 77. Dividends of the net profits of such association shall be declared on the first days of July and January of each year, unless some different time is fixed by the by-laws of such corporation.

Sec. 78. That all articles of association filed in the State Department since December 2, A. D. 1871, in accor-

dance with the provisions of "An Act concerning Private Corporations" purporting to have been passed on the second day of December, A. D. 1871, are hereby validated as fully as if filed after the passage of this act.

Article XIV.—Bridges and Ferries.

Sec. 79. That whenever any person or persons shall file with the Secretary of State any article of association for the erection and maintenance of a Bridge or Ferry, it shall not be lawful for any other toll-bridge or toll-ferry to be established on the same stream within the limits specified in said article; provided, that said limits shall not extend more than three miles above and three miles below said bridge or ferry; and provided, further, that this section shall not be so construed as to prohibit bridges and ferries at the crossings of any road on such stream within such limits declared either before or after the erection of such bridge or ferry to be a public road by the county court, of the county in which such crossing is situated.

Sec. 80. That all charges or tolls for crossing any bridge or ferry shall be regulated by the county court by an order made at a regular term, and spread upon the minutes of said court.

Sec. 81. That all persons or corporate companies owning any toll bridge or ferry, shall be liable for all damages caused by neglect, delay, or the insufficiency of their bridge or ferry boat, which damages may be recovered before any court of competent jurisdiction.

Sec. 82. That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

Sec. 83. That this act take effect and be in force from and after its passage.

Approved April 23, 1874.

CHAPTER XCVIII.

An Act to amend an Act to fix the times of holding the District Courts of the Twenty-first Judicial District of the State of Texas, approved June 4, 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That the first section of the above recited act

shall hereafter read as follows: "Section 1. Be it enacted by the Legislature of the State of Texas, That the District Courts of the Twenty-first Judicial District of the State shall be holden at the times hereinafter specified, to-wit: in Colorado county on the first Mondays in October, February and June, and may continue in session three weeks; in Fort Bend county on the fourth Mondays in October, February and June, and may continue in session three weeks; and in the county of Austin on the third Mondays in November, March and July, and may continue in session until the business is disposed of."

Sec. 2. That the second section of the above recited act shall hereafter read as follows: "Sec. 2. That for the June term of the District Court of Colorado county, petit and grand juries shall be drawn and summoned, and causes tried in the usual way."

Sec. 3. That all laws in conflict herewith are repealed, and that this act take effect from its passage.

Approved April 24, 1874.

CHAPTER XCIX.

An Act making an appropriation to Defray the Traveling and other Contingent Expenses of the Adjutant General of Texas in collecting the State Arms.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of one thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any moneys in the treasury not otherwise appropriated, to defray the traveling and other contingent expenses of the Adjutant General of Texas while engaged in collecting the State arms.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved April 24, 1874.

CHAPTER C.

An Act to Provide for the Amendment of Town and City Charters.

Section 1. Be it enacted by the Legislature of the State

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of Texas, That whenever in the judgment of the Board of Aldermen of any incorporated town or city, it becomes necessary or desirable to amend the charter of said town or city, the said board of aldermen shall prepare suitable amendments to said charter, and submit said amendments to a vote of the qualified electors in said town or city, provided, that in no instance where the incorporated limits of any town or city shall be extended as herein provided, shall it be lawful to tax the person or property embraced in said extension, to pay the then existing corporation debt, unless the same is agreed to by a two-thirds vote of the tax-payers embraced in said extension.

Sec. 2. That said amendments shall be printed and posted in said city or town, or published in some newspaper in the county where said town or city shall be situated, for thirty days anterior to the day designated for taking a vote thereon.

Sec. 3. Should a majority of the votes cast be in favor of said amendments, then and in that event said amendments shall be considered ratified and adopted, and shall be considered and held to be a part of the organic law of said town or city.

Sec. 4. That no amendment shall be proposed or submitted by any board of aldermen which shall contravene, or be repugnant to, the constitution or statute laws of this State.

Sec. 5. That the election contemplated by this act shall be conducted in all respects as other elections for municipal officers in said city or town are by law required to be conducted.

Sec. 6. That this act take effect and be in force from and after its passage.

Approved April 24, 1874.

CHAPTER CI.

An Act authorizing the Judge of the Twenty-eighth Judicial District to hold a Special Term of Court in Brazos County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Judge of the Twenty-eighth Judicial District is hereby authorized and required to hold a

special term of the District Court of Brazos county, to try all causes, civil and criminal, commencing on the first Monday in July, 1874, and to continue in session four weeks.

Sec. 2. This act take effect and be in force from and after its passage.

Approved April 24, 1874.

CHAPTER CII.

An Act to provide for the Sale of the Alternate Sections of Lands as surveyed by Railroad Companies, and set apart for the benefit of the Common School Fund.

Section 1. Be it enacted by the Legislature of the State of Texas, That all the alternate sections of land heretofore surveyed, or which may be hereafter surveyed, by any railroad company and set apart by the State for common school purposes, shall be brought into market and disposed of, in the manner hereinafter provided.

Sec. 2. That any settler on any of said land who has settled on the same before the passage of this act, may purchase not more than one hundred and sixty acres (unless his improvement is on a fractional section less than three hundred and twenty acres; in that case he shall take the entire fractional section, so as to include his improvements), by making application to the surveyor in writing, stating the county in which the land is situated, the number of the section, the quarter section he wishes to purchase; if it is a fractional section he shall designate it by its number. When said application is filed, if for other than a fractional section, the surveyor shall proceed to survey the tract applied for, beginning at the proper corner of the section applied for, and survey the quarter in a square or as near so as is practicable and record the field notes in his office, and forward the same to the Commissioner of the General Land Office, with the application. The surveyor shall receive for his services the fees allowed by law, to be paid by the applicant; also one dollar for his service in receiving applications and forwarding the same to the Commissioner of the General Land Office, to be paid by the applicant.

Sec. 3. That the Governor shall appoint three commissioners for each one or more counties in which any of such lands are situated, to value each quarter section or fractional section when called on to do so. Said commissioners shall be qualified electors and freeholders of the State, and in no wise interested in said lands by settlement upon the same, or otherwise. The said commissioners shall make and subscribe an oath before some officer authorized to administer oaths, that they are in no wise interested in said land by settlement upon the same, nor related by consanguinity or affinity to any one that is settled upon them, and that they will assess the real and true value of each tract so called on to value, without reference to the enhanced value of the same by reason of any improvement thereon, and shall make a report thereof to the surveyor of said county, designating the price per acre of each tract so valued, which report shall be sworn to before some officer authorized to administer oaths, by at least two of said commissioners. The said commissioners shall receive for their services three dollars per day for each day actually engaged, to be paid out of the first moneys obtained from the proceeds of said lands.

Sec. 4. That so soon as the value of any tract has been assessed, the applicant shall forward to the State Treasurer one-tenth of the assessed value of the tract. The State Treasurer shall, on receipt of the same, forward to the said applicant a receipt for the amount so received; and the said applicant shall make, execute and deliver to the said surveyor his obligation in writing for the balance of the assessed value of said land, stipulating and agreeing therein to pay the State of Texas ten per cent. interest on said amount annually, with one-tenth of the principal, which interest, with one-tenth of the principal, shall be due and payable on the first day of March of each year; but said purchaser may have the privilege of paying the entire amount of the principal and interest due at the time of payment and liquidate his obligation; and if such actual settler does not apply to purchase said land within six months, the same shall be subject to sale the same as other alternate sections of land not occupied.

Sec. 5. That all quarter sections of said land, on which no person has settled before the passage of this act, or which have not been applied for by an actual settler, as provided in this act, shall be sold upon the purchaser making

application, designating the quantity of land he desires to purchase, when the same proceedings shall be had as provided in section four of this act, and the same obligation entered into by the purchaser with the additional obligation that he will settle upon and improve said lands within twelve months from the date he so designates; and if he does not settle upon such lands within said time, the applicant shall forfeit all right and claim to the same.

Sec. 6. That in case any portion of such lands are not taken up and sold to actual settlers, as provided for in this act, then the same may be purchased by any person who may apply, by conforming with the provisions of this act as regards terms and conditions of sale and price; provided, that no lands under the provisions of this act shall be sold at a price less than one dollar and fifty cents per acre; and provided further, that any person hereafter entering upon any of said land, and making improvements thereon without complying with the provisions of this act for the purchase of the same before making said improvement, then and in that case the improvement shall be taken into consideration in valuing the same by the commissioners.

Sec. 7. That the surveyor aforesaid shall give to such applicant, who complies with the requirements of this act, a certificate to that effect, designating the quarter section or parts of quarter sections by him purchased.

Sec. 8. That the obligation so entered into by the purchaser of the said land shall be forwarded to the Commissioner of the General Land Office by the surveyor, and the said commissioner shall have the same recorded in a well bound book kept for that purpose, and he shall deliver the said obligations to the Treasurer of the State, who shall carefully file the same in his office.

Sec. 9. The Commissioner of the General Land Office shall procure a well bound book, in which shall be kept an account with such purchasers of said lands, showing the amount for which the same were sold, and the interest accruing thereon.

Sec. 10. That upon the presentation of the receipt of the Treasurer of the State, by any purchaser of said lands, for any amount due by him on his obligation, to the Commissioner of the General Land Office, said commissioner shall cause to be entered a credit on said purchaser's account for said sum, and the date of payment, and issue to him a certificate showing such payment.

Sec. 11. That should the purchaser fail to pay the annual installments, together with the interest thereon, to the treasurer, and present his receipt to the Commissioner of the General Land Office on or before the first day of March following the maturity thereof, said commissioner shall notify the treasurer of such failure, who shall endorse on such obligation a statement of such failure, and sign his name thereto, and said purchaser shall forfeit all his rights and interest in said land.

Sec. 12. That should said purchaser die before the payment of any one installment, and interest thereon falls due, his administrators, executors, or heirs, shall have an extension of twelve months in which to pay the same.

Sec. 13. In case of failure to pay said installments and interest, as hereinbefore provided, by any purchaser who shall refuse to abandon such land, the district attorney shall cause a writ to be issued and served on the purchaser; or, in case of his death, upon his legal representatives or heirs, requiring him to show cause why he should not be ejected from such land; and upon his failure to show that he has paid such installments and interest thereon as above provided, a judgment shall be rendered against him, and a writ of possession be issued in favor of the State.

Sec. 14. In case said purchaser desires to sell such lands after he has settled upon the same as above provided, he may do so, but in that event his vendee shall substitute his obligation in lieu of the obligation of his vendor.

Sec. 15. Said lands shall be subject to taxation from date of purchase.

Sec. 16. That the proceeds arising from the sale of such lands shall be paid into the common school fund, the principal to be invested in United States bonds, and the interest arising therefrom to be applied to the use of common schools.

Sec. 17. Upon final and full payment on any purchase made under the provisions of this act, the Commissioner of the General Land Office shall issue a patent to the purchaser making the same, or to his vendee or heirs.

Sec. 18. The Commissioner of the General Land Office and Attorney General shall prescribe such minute details necessary to carry out the object of this act, and give instructions accordingly to surveyors and appraisers in such counties wherein the kinds of lands are located, or such class as the Governor may direct.

Sec. 19. All laws and parts of laws in conflict with this act shall be and are hereby repealed. This act shall take effect and be in force from and after its passage.

Approved April 24, 1874.

CHAPTER CIII.

An Act to provide for the Sale of the Land granted to the Deaf and Dumb, the Lunatic and Blind Asylums..

Section 1. Be it enacted by the Legislature of the State of Texas, That the county courts of the several counties of this State, where any of the lands surveyed and belonging to the Deaf and Dumb, the Lunatic and Blind Asylums, and located in their respective counties, shall recommend to the Governor of the State three disinterested freeholders, resident citizens of their respective counties, and upon such recommendation the Governor shall, if satisfied of their qualifications, appoint said persons commissioners to appraise the value of said lands, when called upon so to do by any person desiring to purchase the same for actual settlement.

Sec. 2. And said commissioners before entering upon the discharge of their duties, after receiving their appointment, shall take and subscribe to the following oath: That they will view and examine in person any of said lands, when called on by any person or persons who is an actual settler, or desiring to settle and purchase any of said lands, and that they will assess the actual and true value of said lands, without reference to any improvements thereon, to the best of their judgment; and said oath shall be filed and recorded in the office of the district clerk of said county.

Sec. 3. It shall be the duty of said commissioners, after examining and valuing said lands, to give to the party or parties desiring to purchase, a certificate signed by them, or any two of said commissioners, and said certificate shall contain a description of the particular section and subdivision of said section appraised by them, the value per acre; and, also, to which asylum said section or part of section belongs; provided, that no purchaser under this act shall be entitled to purchase more than one hundred and sixty acres, nor less than eighty acres, including his or her

improvements; and shall be subdivided and surveyed as near as possible at right angles, and shall not be a part of any two quarter sections, unless it shall be to protect any actual settler in his or her improvement, and said certificate shall describe said quarter section or subdivision as being a certain portion of a certain section; provided, further, that none of said lands shall be sold for a less price than one dollar and fifty cents per acre.

Sec. 4. That when the purchaser or purchasers, or his or their agents, shall present the certificate, signed by said commissioners, or any two of them, to the Treasurer of the State, and pay one-tenth of the appraised value of said tract or parcel of land, and execute his promissory note for the remaining nine-tenths, with interest at ten per cent. per annum, payable to the Treasurer of the State of Texas, and due ten years after date, he shall give the party paying and depositing his or her note, a receipt for the same; and upon the presentation of this receipt to the Commissioner of the General Land Office, he shall mark upon the map of any county wherein said lands are situated, the described quarter section or subdivision sold, and the purchaser shall have exclusive possession of said land; and the receipt of the Treasurer of the State showing that the appraised value of said lands and interest has been paid off and discharged, filed in the General Land Office, shall authorize the Commissioner of the General Land Office to issue a patent to said purchaser to said land; and nothing in this act shall be so construed as to prevent the purchaser from paying the full amount of the purchase money and interest at any time, and receive a receipt therefor.

Sec. 5. The commissioners shall receive for their services from the purchaser one dollar each for each certificate of settlement issued, and all expenses for surveying shall be paid by the purchaser.

Sec. 6. Any person desiring to purchase any of said lands, complying with the provisions of this act, shall be required to settle upon the quarter sections or subdivisions designated by him within six months from the date of his designation and certificate, and should he fail to so settle, he shall forfeit all claims to said lands, and it shall be subject to settlement, under the provisions of this act, by any other person; and it shall be the duty of said commissioners to keep recorded, in a well bound book, the names of all persons to whom they issue certificates, and the dates

thereof, the number of acres, and a brief description of the quarter section or subdivision purchased.

Sec. 7. Any person purchasing any of said lands, under the provisions of this act, who shall fail or refuse for three months to pay any of said installments and interest, when they become due, he shall forfeit what he has paid, and the land shall revert back to the Deaf and Dumb, the Lunatic and Blind Asylum to which it belonged; and it shall be the duty of the Treasurer, when any such failure is made, to notify the Commissioner of the General Office, and he shall mark on the map "Forfeited;" provided, that in case of the death of said purchaser, before any such forfeiture is made, then his heirs, executors or administrators shall have twelve months after his death to make such payment as may fall due.

Sec. 8. All actual settlers now residing upon any of said lands shall have the preference to purchase the land, including his or her improvements, over any other person, for twelve months after the passage of this act; and should any actual settler fail to comply with the provisions of this act, within twelve months from the date of its passage, he shall forfeit all claims to said lands, and it shall be subject to settlement by any other person under the provisions of this act.

Sec. 9. That this act shall not be construed so as to prohibit any actual settler from transferring his claim to any other person who will actually occupy said land; provided, all subsequent purchasers shall comply with the provisions of this act, and shall execute his obligation for the amount that may be due, and file the same with the Treasurer of the State, in lieu of the obligation that may be on file in his office, executed by any former person.

Sec. 10. That if any actual settler shall cut, sell or destroy, or permit any one else to cut, sell or destroy, any more timber than is necessary in cleaning and improving said lands, and for necessary fire wood, he shall forfeit all claims to said lands, and it shall be subject to settlement by any other person under the provisions of this act.

Sec. 11. Should any actual settler violate the provisions of this act, it shall be the duty of the district attorney to eject any such person, so violating, from any of said lands by civil suit in the name of the State, and the costs shall be paid as in other suits, and said district attorney shall not be required to make oath, as required to be made in suits of ejectment.

Sec. 12. It shall be the duty of the Treasurer, when payments are made by purchasers of said lands, to keep separate accounts of all moneys so paid to him in favor of the Deaf and Dumb, the Lunatic and Blind Asylums, and duly credit all notes of purchasers with the amounts annually paid, and execute to them respectively a receipt for all moneys paid by said purchasers.

Sec. 13. That every tract of land sold under the provisions of this act shall be subject to taxation from the date of the first payment thereon.

Sec. 14. That where said lands are sectionized, the surveyors subdividing the same into quarter sections shall divide them by running lines at right angles through the center.

Sec. 15. That where there is a conflict between the lines of actual settlers, the commissioners are hereby empowered to run and settle the lines between said actual settlers, and in all respects regarding and protecting the interests of all parties interested.

Sec. 16. The interest due on the notes executed for the purchase money of said lands, and one-tenth of the principal of said notes shall be paid on the first day of March in each succeeding year.

Sec. 17. That this act take effect and be in force from and after its passage.

Approved April 25th, 1874.

CHAPTER CIV.

An Act to ascertain the amount due the Teachers of the Public Free Schools of this State, for services rendered as teachers prior to the first day of July, eighteen hundred and seventy-three, and to provide for the payment of the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be the duty of the Governor immediately after the passage of this act, to direct the teachers of the public free schools throughout the State, by proclamation, to forward their claims in person or by attorney, to the Comptroller for examination, which proclamation shall contain an exact copy of section three of this act, for the information of teachers.

Sec. 2. It shall be the duty of the Comptroller, ten days after the proclamation of the Governor shall have been issued, to proceed to audit all genuine and just claims of teachers of the public free schools of this State, which have accrued before the first day of July, eighteen hundred and seventy-three; and when audited, the Comptroller shall draw his warrant on the State Treasurer for the amount due each teacher, specifying therein time of service, which shall be paid by the treasurer, as hereinafter provided by law, and that the sum of four hundred thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any moneys in the State Treasury, belonging to the available school fund not otherwise and heretofore appropriated, to pay amounts due teachers of the public schools of this State for service rendered prior to the first day of July, 1873, claims to be verified and disbursements made as hereinafter provided; provided, that warrants issued by virtue of this appropriation shall be registered by the Comptroller at the time of issuance, and shall draw interest at the rate of eight per cent. per annum until paid, or may be converted into school bonds at the option of the holder.

Sec. 3. That the teacher of any public free school in this State to whom money may be due for services rendered prior to the 1st day of July, (1873) eighteen hundred and seventy-three, shall present his vouchers, duly authenticated in accordance with the rules and regulations heretofore adopted by the Superintendent of Public Instruction for the payment of teachers, to the Comptroller, who shall draw his warrant on the Treasurer for the amount which shall be due on the same; provided, that the assignee of any such voucher shall be entitled to his warrant on the Treasurer in like manner as the original owner of said voucher, upon his appending thereto his affidavit, duly authenticated before an officer authorized to administer oaths, that he is the bona fide owner or holder of the same, and that he has received no payment on the same, except as stated, (in case any payment has been made); provided, further, that in case vouchers have not been given for services of teachers as required by law, accounts may be audited and warrants drawn by the Comptroller for the amount that is found to be due on said accounts, when accompanied by the affidavit of the teacher, or his or her legal representatives, duly authenticated before an officer

authorized to administer oaths, stating the date, number of days taught, and average number of children taught in each month, and that the same is due and unpaid, except as stated, (in case payments have been made), which accounts shall also be accompanied by the affidavits of at least two respectable patrons of the school, stating that the services were rendered at the times stated in the affidavit of the teacher; and the officer before whom these affidavits are made shall certify to the credibility of the parties.

Sec. 4. That it shall be the duty of the Superintendent of Public Instruction, immediately after the passage of this act, to furnish the Comptroller with a tabular statement, showing all payments to teachers made without warrants previously issued therefor by the Comptroller, specifying the amounts, for what services, and the persons to whom paid; and it is hereby also made the duty of the Treasurers of all county school boards who may have had in their hands any school funds, to immediately forward to the Superintendent of Public Instruction, and also to the Comptroller of Public Accounts, a statement of the amount of school funds received by them, showing all payments made by them to teachers, with the amounts, date of payment, the persons to whom paid, and for what service; which statements shall be verified by the affidavit of the party making it, before the clerk of the district court. It is hereby further made the duty of the Superintendent of Public Instruction, immediately on the passage of this act, to notify the treasurers of the several school boards in this State of the requirements of this section; and [if] any party whose duty it is to furnish the statements required by this section, fails to do so, as herein provided, he shall be deemed guilty of a misdemeanor, and upon conviction before any court of competent jurisdiction, shall be fined not less than fifty nor more than one thousand dollars, and may be removed from office at the option of the court trying the same.

Sec. 5. That this act take effect and be in force from and after its passage.

Approved April 27, 1874.

CHAPTER CV.

An Act validating the authentication and registration of certain Instruments of Writing.

Section 1. Be it enacted by the Legislature of the State of Texas, That every grant, deed, mortgage, power of attorney, or other instrument of writing for the conveyance of real or personal estate, required or permitted by law to be registered and that shall have been heretofore acknowledged or proven in the manner prescribed by law, without the State and within the United States, and their territories, before any one of the officers in such cases now authorized by law to take such acknowledgments, or proofs, and which shall have been duly certified by such officer, shall be held to be duly acknowledged or proven with the full effects and consequences of existing laws; and any such instrument, which shall have been so acknowledged or proven before either of such officers, and which shall have been heretofore registered, shall be held to be duly registered with like full effects and consequences of existing laws; provided, however, that this act shall not be so construed as to give it any retroactive operation, or to effect any right acquired prior to its passage.

Sec. 2. That this act shall take effect and be in force from and after its passage.

Approved April 27, 1874.

CHAPTER CVI.**An Act supplemental to "An Act to further provide for the sale of bonds to pay the Public Debt," approved April 13, 1874.**

Section 1. Be it enacted by the Legislature of the State of Texas, That the first section of the act, to which this is a supplement, shall be and is hereby amended so as hereafter to read as follows, to-wit: "Section 1. That said bonds shall be payable thirty years from the first day of January, A. D. 1874, to bearer in gold coin, and shall bear interest at the rate of seven per cent. per annum, payable semi-annually in gold coin, to-wit: on the first day of

January and the first day of July of each year, and to have coupons attached for each installments of interest which may become due. The principal and interest of said bonds shall be payable in the city of New York, or in the city of London, at the option of the Governor of the State, through such agent or agents as the Governor of the State may select.

Sec. 2. That all laws and parts of laws in conflict herewith be and the same are hereby repealed, and that this act take effect and be in force from and after its passage.

Approved April 27, 1874.

CHAPTER CVII.

An Act to regulate Pawnbrokerage.

Section 1. Be it enacted by the Legislature of the State of Texas, That hereafter any person who shall desire to do business as a pawnbroker may do so on the following conditions and no other: that he shall pay an annual tax of one hundred dollars to the State, and such other tax as the respective counties and cities may be authorized to levy; he shall keep a book or register of all his transactions as a broker, and shall make entry thereon as follows: the article, from whom received, the date of receiving, the time and amount for which the article is pawned or pledged, the probable value of the article, and the rate of interest agreed upon; all entries of articles shall be made in the order of receiving; and the book or registry shall be kept open for inspection, and the broker shall give to the party pledging a ticket corresponding to the entry on the book or registry; that he shall give bond, with two good securities, in the sum of one thousand dollars, payable to the State of Texas, and approved by and filed with the clerk of the district court, conditioned that he will comply with each and every requirement of this act.

Sec. 2. If any article deposited with such broker, as a pawn or pledge, shall not be redeemed at or before the time agreed upon, the broker shall sell the same at public auction after five days' notice posted on the courthouse and postoffice doors, and in the office of the district clerk; such notice shall contain a full description of the article or ar-

ticles, and all surplus, deducting principal, interest, and commissions of an auctioneer, arising from such sales, shall be held for one month, subject to the order of the owner, and, if not called for, shall be paid into the treasury of the county; and the amount for which each article was sold shall be entered on the book or registry of the broker.

Sec. 3. Suit may be brought by the county court, or by the party at interest or injured, for such surplus as also on the bond required by this act, and for this purpose said court may employ counsel, and any amounts recovered shall be paid into the treasury of the county; provided, that such bond shall be sufficient as to conditions, if it refer to this act by caption; and the said bond shall be renewed every twelve months.

Sec. 4. If any pawnbroker, or any person who shall do business as such, shall receive any article in pledge in any manner, other than the one indicated in this act, or shall sell any such article, in any manner other than required herein, he shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined one hundred dollars, one-fourth of which shall be paid to the informant, and the remainder paid into the county treasury.

Sec. 5. That this act shall take effect and be in force from and after its passage.

Approved April 28, 1874.

CHAPTER CVIII.

An Act to extend the provisions of House Bill No. 16, entitled "An Act to encourage Stock Raising, and for protection of Stock Raisers," to the counties of Liberty, Orange, Chambers and Jefferson.

Section 1. Be it enacted by the Legislature of the State of Texas, That the provisions of House Bill No. 16, entitled "An Act to encourage Stock Raising and for protection of Stock Raisers," approved, March 23, 1874, be and the same are hereby extended to the counties of Liberty, Orange, Chambers and Jefferson.

Sec. 2. That this act shall take effect and be in force from and after its passage.

Approved April 28, 1874.

CHAPTER CIX.

An Act to amend "An Act prescribing the times of holding the District Courts in the several Judicial Districts in the State," approved August 10, 1870.

Section 1. Be it enacted by the Legislature of the State of Texas, That the twenty-sixth section of "An Act prescribing the times of holding the District Courts in the several Judicial Districts in the State," approved August 10, 1870, be amended so as to read as follows: That the District Courts of the Twenty-fifth Judicial District shall be holden at the times hereinafter specified, to-wit: in the county of El Paso, on the first Mondays in September, January and May, and may continue in session three weeks; in the county of Presidio on the second Mondays in October, February and June, and may continue in session one week; in the county Pecos, on the third Mondays after the first Mondays in October, February and June, and may continue in session one week; in the county of Tom Green on the fifth Mondays after the first Mondays in October, February and June, and may continue in session one week.

Sec. 2. That the counties of Presidio, Pecos and Tom Green shall be attached to the county of El Paso for judicial purposes until organized.

Sec. 3. That this act shall take effect and be in force from and after its passage.

Approved April 28, 1874.

CHAPTER CX.

An Act to require District Clerks and other officers authorized and permitted by law to take acknowledgments and proofs of Deeds and other written instruments, to keep a record of the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That district clerks, justices of the peace, notaries public, and all other officers authorized or permitted by any law of this State, to take the acknowledgment or proof of any deed, bond, mortgage, bill of sale, or any other written instrument required or permitted by law to be

placed on record, under any law of this State, shall procure a well bound book, in which they shall enter and record a short statement of each acknowledgment or proof taken by them, which statement shall be by them signed officially. Such statement shall recite the true date, on which such acknowledgment or proof was taken, the name of the grantor and grantee of such instrument, its date, if proved by a subscribing witness, the name of the witness, the known or alleged residence of the witness, and whether personally known or unknown to the officer; if personally unknown, this fact shall be stated, and by whom such person was introduced to the officer, if by anyone; and the known or alleged residence of such person. Such statement shall also recite, if the instrument is acknowledged by the grantor, his then place of residence, if known to the officer; if unknown, his alleged residence, and whether such grantor is personally known to the officer; if personally unknown, by whom such grantor was introduced, if by any one, and his place of residence. If land is conveyed or charged by the instrument, the name of the original grantee shall be mentioned, and the county where the same is situated. The book herein required to be procured and kept, and the statements herein required to be recorded in the same, shall be on original public record, and shall be transmitted from predecessor to successor, and the same shall be open to the inspection and examination of any citizen at all reasonable times.

Sec. 2. Any district clerk, justice of the peace, notary public, or any other officer of this State, who, under any law of this State is authorized or permitted to take acknowledgment or proof of any deed, bond, mortgage, bill of sale, or other written instrument for record, shall willfully fail, neglect or refuse to comply with any of the requirements of the first section of this act, shall be guilty of a misdemeanor, and on conviction before any court of competent jurisdiction, shall be fined in any sum not less than one hundred dollars, nor more than five hundred dollars, and the jury trying the case may in addition, find that such officer be dismissed from office.

Sec. 3. Any person injured by the failure, refusal, or neglect of any officer, whose duty it is to comply with any of the provisions of the first section of this act, shall have a right of action against such officer so failing, refusing or neglecting, before any court in this State, of competent

jurisdiction, for the recovery of all damages resulting from such neglect, failure, or refusal.

Sec. 4. That this act take effect and be in force sixty days from and after its passage.

Approved April 28, 1874.

CHAPTER CXI.

An Act to be entitled "An Act to provide for a Special Registration of Voters in any unorganized or disorganized County within the State of Teas."

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever the residents of any unorganized or disorganized county within the State shall present to the county court of the county, to which such unorganized or disorganized county shall be attached for judicial or other purposes, evidence satisfactory to said court that there are at least one hundred and fifty persons entitled to vote residing in such unorganized or disorganized county, and that said residents desire a special registration as a preliminary step to organizing or reorganizing their county, as the case may be, or upon the petition of one hundred and fifty persons claiming to be residents of said county and entitled to vote, to said court, it shall be the duty of said court, or any three members thereof, either at their regular or call term, within twenty days after the presentation of such evidence or petition to said court, to lay off and divide said county praying for registration into five convenient precincts, which shall embrace the entire county, defining particularly the boundaries of such precinct, and to order a special registration, at a suitable place in each precinct, of the residents therein entitled to vote, to be made and completed by the district clerk of said court, or his duly appointed deputy, within thirty days after the issuance of such order, of all of which said court shall cause a record to be made and filed in the office of the district clerk of said court. Said district clerk, upon receiving such order, shall appoint a temporary registrar duly qualified, whose duty it shall be to give at least five days' notice of the time and place and number of days which he will be present to make such registration, by at least three written or printed notices posted in at least three public places in each election

precinct; and he shall attend in person at the places designated by said court at least three days in each precinct (Sundays excepted); and shall register the name of any person resident in such precinct who may be entitled to vote therein, for which services said registrar shall be entitled to a fee of ten (10) cents for each name registered or rejected, to be paid by the county in which such registration is made, for which the said court shall issue the proper order.

Sec. 2. That it shall be the duty of the district clerk of said court to procure suitable books in which to register the names of the said voters in each precinct separately, and one book in which to enter the names of the whole number of said voters in said county by precincts, and shall procure all necessary blank forms and certificates, which he shall duly furnish to said temporary registrar, and which shall be paid for by the county in which such registration is made, for which the said court shall issue the proper order.

Sec. 3. That said registration lists, when completed as hereinbefore required, shall be delivered to the justices of the peace of the county ordering such registration, who shall constitute a board of revision, any three of whom may act, and said board of revision, at their next regular term thereafter, shall meet at the county seat of their said county, and shall continue in session three days as a board of revision to hear appeals and to register other persons entitled to register, and shall proceed to revise the said registration lists, and shall certify the same in such manner as now or hereafter may be prescribed by law regulating general registration. All persons thus registered shall be deemed qualified voters.

Sec. 4. That upon completion of revision of said registration lists, they shall be preserved in the office of the district clerk of the court ordering such registration, until an election shall be ordered in such unorganized or disorganized county; and thereupon, before the day of such election, the said district clerk, under his hand and official seal, shall deliver, or cause to be delivered by the sheriff or one of his deputies, or some other person sworn to discharge that duty, to the presiding officer in each election precinct where such election is to be held, the separate registration book of that precinct to be used during such election, and all other elections that may intervene prior to the next general registration.

Sec. 5. That in all other respects said registration and revision, so far as practicable, shall be conducted as now or hereafter may be prescribed by law regulating general registration, and any officer failing to comply with any requirements of this act shall be subject to all the pains and penalties prescribed in any law that now or hereafter may provide for a general registration of voters.

Sec. 6. That this act shall take effect and be in force from and after its passage.

Approved April 28, 1874.

CHAPTER CXII.

An Act prescribing the time of holding the District Courts of the Thirty-fourth Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas, That the district courts of the thirty-fourth Judicial District shall be held as hereinafter prescribed, to-wit: in the county of Bell on the first Mondays in January and September, and may continue in session four weeks; in the county of Coryell on the first Mondays in February and October, and may continue in session two weeks; in the county of Hamilton on the third Mondays in February and October, and may continue in session one week; in the county of Comanche on the fourth Mondays in February and October, and may continue in session two weeks; in the county of Eastland on the fourth Mondays after the first Mondays in February and October, and may continue in session one week; in the county of Erath on the fifth Mondays after the first Mondays in February and October, and may continue in session two weeks.

Sec. 2. Be it further enacted, That the District Court shall be held in said judicial district as follows, to-wit: in the county of Bell on the first Monday in May, and may continue in session one week; in the county of Coryell on the second Monday in May and may continue in session one week; in the county of Hamilton on the third Monday in May and may continue in session one week; in the county of Comanche on the fourth Monday in May, and may continue in session one week; in the county of Eastland on the fourth Monday after the first Monday in May,

and may continue in session one week; in the county of Erath on the fifth Monday after the first Monday in May, and may continue in session one week.

Sec. 3. That all the laws in conflict with this act are hereby repealed, and that this act take effect and be in force from and after the first day of July, 1874.

Approved April 28, 1874.

CHAPTER CXIII.

An Act to amend Section Thirty-nine of An Act entitled "An Act to encourage Stock Raising, and for the protection of Stock Raisers," approved March 23, 1874.

Section 1. Be it enacted by the Legislature of the State of Texas, That section thirty-nine of the above recited act be amended so as to read as follows, to-wit. Section 39: "Any person or persons who shall fraudulently sell any cattle or horse stock not their own, without first having obtained a power of attorney, duly authenticated from the owner or owners thereof, shall be deemed guilty of a felony, and on conviction, shall be confined in the penitentiary not less than one nor more than five years. In any prosecution under this section, it shall only be necessary to prove that the cattle or horse stock did not belong to the accused, and that he sold the same. And it shall devolve upon the accused to show any fact under which he can justify or mitigate the offense.

Sec. 2. This act shall be in force from and after its passage.

Approved April 29, 1874.

CHAPTER CXIV.

An Act to authorize the Judge of the Seventh Judicial District to hold a Special Term of the District Court for the county of Marion.

Section 1. Be it enacted by the Legislature of the State of Texas, That the judge of the seventh judicial district be and he is hereby authorized and required to hold a special term of the District Court for the county of Marion for the

trial and disposition of such criminal cases as may be pending in said court or that may be brought before it by presentment of a grand jury which may be empaneled for said term, and also for the trial and disposition of such civil causes and matters of probate as parties litigant may consent to try.

Sec. 2. That such special term of the court shall commence on the third Monday in May, 1874, and may continue in session four weeks unless the business shall sooner be disposed of.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved April 29th, 1874.

CHAPTER CXV.

An Act to authorize the Judge of the Twenty-fifth Judicial District to hold a Special Term of the District Court in the county of El Paso.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Judge of the Twenty-fifth Judicial District is authorized and required to hold a special term of the District Court in and for the county of El Paso and the counties attached thereto, commencing on the third Monday in May, and may continue three weeks.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved April 29, 1874.

CHAPTER CXVI.

An Act to define the land districts of Palo Pinto, Jack, Clay, Young and Eastland.

Section 1. Be it enacted by the Legislature of the State of Texas, That the counties of Palo Pinto, Stevens, Shackelford, Jones and Taylor, and the territory included within the following described limits, viz: beginning at the north-west corner of Jones county, thence in a straight line due west from said north-west corner of Jones county, to

the twenty-sixth meridian of longitude west from Washington, the same being the east boundary line of the territory of New Mexico, thence south along the twenty-sixth meridian to the Pecos river; thence down said river to the Horse-head crossing of the same; thence in a north-easterly direction to the south-west corner of Runnels county; thence north to the south-west corner of Taylor county, be, and the same is hereby made and constituted the Palo Pinto Land District, and the county surveyor of Palo Pinto county shall be the surveyor of said district. He shall keep his office in the town of Palo Pinto, and the records of all files and surveys of land in said district shall be kept in said office.

Sec. 2. That the counties of Jack, Archer, Baylor, Knox and Hardeman, and the territory included within the following described limits, beginning at the initial monument on the twenty-third meridian of longitude west from Washington; thence up the Prairie Dog Town Fork of Red River to the twenty-fourth meridian of longitude west from Washington; thence north with said longitude to the north boundary line of the State of Texas; thence west to the east boundary line of the territory of New Mexico, the north-west corner of the State of Texas; thence south to the thirty-fourth parallel of latitude to the northwest corner of Young land district, as provided for in this bill; thence east with the north boundary line of Young land district to the west boundary line of Hardeman county, [to the west boundary line of Hardeman county,] be, and the same is hereby made and constituted the Jack Land District, and the county surveyor of Jack county shall be the surveyor for said district, and shall keep his office in the town of Jacksboro, in Jack county, and the records of all files and surveys of land for said district shall be kept in said office.

Sec. 3. That the counties of Clay, Wichita, Wilbarger, Greer and the territory included within the following described limits beginning at the initial monument on the twenty-third meridian of longitude west from Washington, thence up the Prairie Dog Fork of Red River with the north boundary line of Jack land district, as defined by this act, to the twenty-fourth meridian of longitude west from Washington; thence north with the east line of said Jack land district to the north boundary line of the State of Texas; thence east with the north boundary line of the

State of Texas, to the northern northeast corner of the State of Texas; thence south along the north eastern boundary line of the State of Texas, to the north-west corner of the county of Greer, shall constitute the Clay Land District, and the county surveyor of Clay county shall be the surveyor of said district, and shall keep his office in the town of Henrietta, in Clay county, and the records of all files and surveys of land in said district shall be kept in said office.

Sec. 4. That the counties of Young, Throckmorton and Haskell, and all the territory included within the following described limits, viz: beginning at the north-west corner of Haskell county, thence north along the west boundary line of the counties of Knox and Hardeman, to the thirty-fourth parallel of latitude; thence west along said thirty-fourth parallel of latitude to the east boundary line of the territory of New Mexico, thence south along said east boundary line of the territory of New Mexico to a point due west from the south-west corner of Haskell county; thence in a straight line east to the south-west corner of Haskell county, be and the same is hereby made and constituted the Young land district; and the county surveyor of Young county shall be the surveyor of said district, and shall keep his office at the county seat of Young county, and the records of all files and surveys of land in said district shall be kept in said office.

Sec. 5. That the counties of Eastland, and Callahan, shall constitute the Eastland land district, and the county surveyor of Eastland county shall be the surveyor of said district, and shall keep his office at the county seat of said county, whenever the same is located, and the records of all files and surveys of land in said district, shall be kept in said office.

Sec. 6. Should the counties of Young and Eastland fail to organize by the election of county officers, then and in that event, the Young land district and the Eastland land district is hereby temporarily attached to the Palo Pinto land district, for all purposes connected with the location and survey of lands until such time as their county organization shall have been perfected by the election of their county officers, after which the land district shall organize in accordance with the fourth and fifth sections of this act.

Sec. 7. That none of the foregoing sections of this act

shall be construed as affecting any survey of land legally and lawfully made by the surveyors of the respective counties or districts who had legal authority for so doing, and the surveyors of land districts created by this act are hereby required to procure within one year from the passage of the same, a certified transcript of all records pertaining to the location and survey of lands made by previous surveyors in the counties or territory to which they have been appointed, and shall keep the same in their office.

Sec. 8. That all laws and parts of laws conflicting with this act are hereby repealed; and this act shall take effect and be in force sixty days after its passage.

Approved April 29, 1874.

CHAPTER CXVII.

An Act to amend section seven of An Act entitled "An Act prescribing the time of holding the District Courts in the several Judicial Districts in the State," approved August 10, 1870, and to repeal the Act passed February 17, 1873, amendatory of the above entitled Act.

Section 1. Be it enacted by the Legislature of the State of Texas, That section seven of the above recited act be so amended as hereafter to read as follows: "Sec. 7. That the district courts of the Sixth Judicial District shall be holden at the times hereinafter specified, to-wit: in the county of Harrison on the first Mondays in December, April and August, and may continue in session eight weeks; in the county of Rusk on the first Mondays in March, July and November, and may continue in session five weeks.

Sec. 2. That all process that has or may be issued, returnable to the district courts of Harrison and Rusk counties previous to the first terms of said courts held under the provisions of this act, shall be deemed and held returnable to said terms.

Sec. 3. That all laws in conflict with this act be and the same are hereby repealed, and that this act take effect from and after its passage.

Approved April 29, 1874.

CHAPTER CXVIII.

An Act to provide for the safe-keeping of the furniture and fixtures belonging to the public halls of the Capitol, the Public Library, and to provide for the improvement of the Capitol Grounds and State Cemetery.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor of the State is hereby authorized and required to appoint a suitable person to take charge of the public halls of the capitol, including the Senate chamber, hall of the House of Representatives, public library, the capitol grounds and State cemetery, with all the public property belonging thereto, who shall be a practical horticulturist.

Sec. 2. That the person so appointed shall, before entering upon the duties of the office, enter into a bond with two or more sureties to be approved by the Governor, in the sum of two thousand dollars, for the faithful discharge of his duties as such appointee. He shall keep a list of all additions of furniture to the public halls, and of books, maps and charts to the public library, and shall file the same in the office of the Secretary of State monthly.

Sec. 3. That the person so appointed shall be charged with the safe-keeping and preservation of the capitol grounds and State cemetery.

Sec. 4. That said appointee shall hold his office for the term of four years from the date of his appointment, unless sooner removed by the Governor for neglect of duty or incompetency; and in addition to being removed from office said appointee and his sureties shall be liable upon his bond in such sum as may be assessed against such appointee and his sureties by any court of competent jurisdiction, and to be collected as in other cases of like nature, for the whole amount of damage or loss of any of the public property under his care, resulting from the neglect on the part of such appointee.

Sec. 5. That it shall be the duty of such appointee to keep the gates and fences of the capitol grounds and State cemetery in good order, and to keep stock out of said enclosures; and it shall be unlawful for any person to take within said enclosures any horse or horses without the consent of said appointee, and no person shall be permitted to

hitch any animal to any tree or shrub within the capitol grounds. Any person so offending shall be guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction shall be fined in any sum not to exceed twenty-five dollars for each and every offense.

Sec. 6. That said appointee shall receive a salary of twelve hundred dollars annually, to be paid in monthly installments under the same rules and regulations that govern the pay of clerks in the various departments.

Sec. 7. That for the purpose of carrying into effect the provisions of this act, the sum of five hundred dollars, or so much thereof as may be necessary, is hereby appropriated out of any funds in the treasury not otherwise appropriated for the hire of labor.

Sec. 8. That the Comptroller is hereby authorized to draw his warrant on the Treasurer of the State of Texas for any of the money herein appropriated upon the presentation by the appointee aforesaid of itemized vouchers, specifying what labor has been employed, also what work has been done, and the amount to be paid therefor, also what materials may have been purchased, which vouchers must be verified by the affidavit of the appointee aforesaid.

Sec. 9. That an act entitled "An Act to provide for the safe-keeping and protection of the State house, or so much thereof as may include the public halls, the committee rooms used by the Legislature, and all the furniture and fixtures belonging to the same, and all the books, maps, charts and papers belonging to the library of the State," approved March 27, 1873, is hereby repealed, and that this act take effect and be in force from and after its passage.

Approved April 29, 1874.

CHAPTER CXIX.

An Act prescribing the times of holding the District Courts in the Twenty-ninth Judicial District, and repealing all other Acts in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas, That the District Courts of the Twenty-ninth Judicial District shall be hereafter held as follows: in the

county of Washington, on the first Mondays in February and September of each year, and continue in session eight weeks, and on the first Monday in June of each year, and continue in session three weeks; in the county of Fayette, on the first Mondays in April and November of each year, and continue in session four weeks; and on the fourth Monday in June of each year, and continue in session two weeks; in the county of Lee, on the first Mondays in May and December of each year, and continue in session two weeks; and on the second Monday in July of each year, and continue in session one week; in the county of Waller on the third Mondays in May and December of each year, and continue in session two weeks, and on the fourth Monday in July of each year, and continue in session one week.

Sec. 2. All process issued and returnable to terms of court as held heretofore in said counties, shall be returnable to the terms herein prescribed; and all bail and delivery, bonds and recognizances heretofore given for appearances to the terms aforesaid, are hereby rendered as valid and binding upon the obligors therein as if the same were conditioned in accordance with the terms herein prescribed.

Sec. 3. At the terms of court commencing in the county of Washington, on the first Monday of June of each year, the court shall hear matters of probate, the trial of criminal cases, motions, and the trial of such civil cases as by the consent of parties may be tried, and may in addition thereto render judgments by default, as at other terms.

Sec. 4. That an Act "to amend an act entitled 'An act prescribing the times of holding the district courts in the several judicial districts in the State,'" approved May 14, 1873, and all other laws in conflict with the provisions of this act, be and the same are hereby repealed, and this act shall take effect and be in force from and after the 14th day of May, 1874.

Approved April 29, 1874.

CHAPTER CXX.

An Act to amend the tenth section of an Act entitled "An Act prescribing the times of holding the District Courts in the several Judicial Districts in the State," approved August 10, 1870.

Section 1. Be it enacted by the Legislature of the State of Texas, That the tenth section of the above recited act shall be so amended as to hereafter read as follows: "Sec. 10. That the district courts of the Ninth Judicial District shall be holden at the times hereinafter specified, to-wit: In the county of Gregg on the second Mondays in January, May and September, and may continue in session two weeks; in the county of Upshur on the first Mondays in October, February and June, and may continue in session two weeks; in the county of Camp on the third Mondays in October, February and June, and may continue in session one week; in the county of Wood, on the fourth Mondays in October, February and June, and may continue in session two weeks; in the county of Rains on the second Mondays in November, March and July, and may continue in session two weeks.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved April 29, 1874.

CHAPTER CXXI.

An Act to require the Commissioner of the General Land Office to furnish copies of Surveys and Field Notes to the Counties of the State.

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever the records of any surveyor's office in this State shall have been destroyed by fire, or otherwise, it shall be the duty of the Commissioner of the General Land Office, upon the application of the county court, to furnish said surveyor's office with copies of all surveys and field notes thereof, that may properly belong to said county; provided, the counties shall pay for such records at the rate of eight cents per one hundred words.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved April 29, 1874.

CHAPTER CXXII.

An Act to improve the navigation of the Sabine, Neches, and Angelina Rivers, and Pine Island Bayou, in the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That a Board of six Commissioners, any four of whom may act, to be appointed by the Governor from among the largest shippers of the counties of Tyler, Jasper, Jefferson, Orange, Newton, Hardin, Angelina, and Nacogdoches, Sabine Cherokee and San Augustine and Shelby, are hereby constituted with full power to superintend, contract for, and control the opening and cleaning out of Neches, Sabine and Angelina rivers and Pine Island bayou, in this State.

Sec. 2. That the said board of Commissioners so appointed shall, within six months from the date of the passage of this act, enter into contract with solvent, responsible, and experienced contractors, to open and thoroughly clean out a channel in said rivers and bayou, at least ninety feet in width, by cutting or sawing off, digging out, or otherwise removing all obstructions below what is now considered too low for navigation, and to girdle or cut down all trees likely to obstruct the navigation of said rivers and bayou, for each and every mile of said rivers and bayou from the points hereinafter designated.

Sec. 3. That the Governor of the State of Texas is hereby authorized and required to appoint a competent and skillful engineer to examine and pass upon each and every mile of said rivers and bayou so opened and freed from obstructions; and the said engineer so appointed, when he shall have inspected and approved of said work, shall file a certificate, under oath, with the Comptroller of Public Accounts of the State of Texas, setting forth the number of miles of said rivers and bayou opened and cleaned out, as required by the terms of this act; and for each and every day actually employed in inspecting said work so done in said rivers and bayou, the said engineer

shall be entitled to the sum of eight dollars, to be paid by the contractor or contractors; provided, that not more than one day shall be consumed by said engineer in inspecting each five miles of said work done on said rivers and bayou.

Sec. 4. That upon the filing of the certificate of the engineer, as provided for in the third section of this act, the Commissioner of the General Land Office of the State of Texas shall issue or cause to be issued to the contractor or contractors, who shall open and clear out said rivers and bayou, for each and every mile of said rivers and bayou so opened eight certificates, each for six hundred and forty acres of land.

Sec. 5. That the certificates issued to said contractor or contractors, under the provisions of this act, shall be located and surveyed in alternate sections: that is to say, for each certificate two sections of land of six hundred and forty acres of land each, adjoining shall be surveyed, and the field notes and maps thereof returned to the General Land Office, whereupon the Commissioner of the General Land Office shall number said sections, and cause to be issued to said contractor or contractors, or their assignees, patents to the odd sections, the even sections being reserved to the State for the school fund; provided always, that the State of Texas shall not be responsible for deficiency of public domain.

Sec. 6. That said contractor or contractors shall complete the work contemplated in section second of this act by the first day of December, 1875, and shall take no benefit under this act for work done after that time.

Sec. 7. That the land obtained under the provisions of this act shall be alienated by said contractor or contractors as follows: one fourth in eight years, one fourth in twelve years, one fourth in sixteen years, from the date of the certificates; provided, that the same shall not be sold to any company or corporation, except so far as may be necessary for the proper use, and necessary for the conducting the business of such company or corporation, or to any person, firm, or company, in trust for said contractor or contractors; and a failure to comply with, or any violation of the provisions of this section shall work a forfeiture of all lands not alienated as required by this act.

Sec. 8. The points between which work on said Neches river shall be done shall be between Weiss Bluff on said river and Clark's Ferry on said river. The points between

which work shall be done on the Angelina river shall be between Platonía, on said river, and the mouth of said river. The points which work shall be done on Pine Island bayou shall be Concord, on said bayou, and the mouth of said bayou. The points between which work shall be done on the Sabine river shall be Hamilton, on said river, and the mouth of said river. That the engineer appointed to inspect the above work shall be appointed at the expense of the contracting parties, and the land certificates hereinbefore mentioned shall be issued only for work actually done.

Sec. 9. That this act take effect and be in force from and after its passage.

Approved April 29, 1874.

CHAPTER CXXIII.

An Act for the relief of certain citizens of Limestone and Walker Counties.

Section 1. Be it enacted by the Legislature of the State of Texas, That all persons from whom the special military tax of fifty cents on the hundred dollars' worth of property was levied and collected in the county of Walker, in the State of Texas, in accordance with an order of E. J. Davis, Governor of said State, of date the twenty-seventh day of February, 1871, be and they are hereby authorized to present receipts or other satisfactory evidence of the payment of said tax to any person lawfully authorized to collect of them the State tax which shall be due either for the year 1874 or 1875, and it shall be the duty of said person so collecting said tax to credit the party producing the evidence with the amount of the special military tax shown to have been paid, and said person so crediting said tax shall file with the Comptroller of Public Accounts of said State the written receipt of the officer who collected said military tax, or in case the receipt cannot be procured, the written affidavit signed by the party receiving the credit, to the effect that he actually paid of said military tax the amount for which he receives credit; and all persons in Limestone county, who paid the military tax by virtue of the declaration of martial law in Limestone county, Texas, of date October 9, 1871, and who are not granted relief by

name in section first of an act entitled "An Act for the relief of certain citizens of Limestone and Walker counties," passed May 30, 1873, and who hold receipts showing the payment of said military tax, or who can furnish satisfactory evidence of the payment of said tax, are authorized to present said military tax receipt or other satisfactory evidence of the payment of said tax to any person lawfully authorized to collect of them the State tax, and it shall be the duty of said person so collecting said tax to credit the party producing said military tax receipt, or other satisfactory evidence as aforesaid, and said person so crediting said tax shall file with the Comptroller of Public Accounts of the State of Texas the written receipt of the officer who collected said military tax, or in case the receipt cannot be procured, the written affidavit signed by the party receiving the credit, to the effect that he actually paid of said military tax the amount for which he receives credit; provided, that before said military tax receipt or written affidavit of the payment of said tax can be used for the purposes aforesaid by any citizen of said Limestone county, the oath prescribed in section four of an act entitled "An Act for the relief of certain citizens of Limestone and Walker counties," passed May 30, 1873, shall be made by the person offering to use said military tax receipt or other evidence of his or their payment of said military tax before some officer authorized to administer oaths, which oath shall accompany the military tax receipt or other evidence of the payment of said military tax; and provided further, that when parties seek to avail themselves of the provisions of this act, and are unable to produce the military tax receipt, the sheriffs or tax collectors of said counties may, in their discretion, require additional proof of the affidavit of said parties of the payment of said military tax.

Sec. 2. That section second of an act passed May 30, 1873, entitled "An Act for the relief of certain citizens of Limestone and Walker counties," be and the same is hereby repealed, and that this act take effect and be in force from and after its passage.

Approved April 29, 1874.

CHAPTER CXXIV.

An Act to amend "An Act to provide for districting the State of Texas into Judicial Districts," approved July 8, 1870.

Section 1. Be it enacted by the Legislature of the State of Texas, That the twenty-fifth section of "An Act to provide for districting the State of Texas into Judicial Districts," approved July 8, 1870, be amended so as to read as follows: That the Twenty-fifth Judicial District shall be composed of the counties of El Paso, Presidio, Pecos and Tom Green.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved April 30, 1874.

CHAPTER CXXV.

An Act amendatory of and supplemental to an Act entitled "An Act to regulate the Assessment and Collection of Taxes," approved May 31, 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That section one of the above recited act shall hereafter read as follows: "Section 1. That the justices of the peace of the several counties in this State shall be the assessors of the taxes in their respective precincts, under such rules and regulations as may be prescribed by law; and they shall make a return to the county court every three months, of all persons in their precincts subject to an occupation tax, which return shall be preserved by said court, and the justices of the peace shall be allowed two and a half per cent. on the amount of occupation tax so returned; and the presiding justice shall condense said reports, and once every three months forward a copy of said condensed reports to the Comptroller.

Sec. 2. That section seven of the above recited act shall hereafter read as follows: "Sec. 7. That all property is directed to be rendered for taxation prior to the first day of May in each year, and the owner or agent rendering said list or inventory shall before rendering the same, make oath as follows, viz: I do solemnly swear (or affirm) that

the inventory now about to be rendered, shall contain a full and complete list of all taxable property owned by me, or held by me for others, liable to assessment in this State, and that the valuation placed upon the property, shall be at a fair market value of the same; and that I will true answers make to all questions propounded to me, touching the same, so help me God; which said list, when so rendered, shall be subscribed by the party rendering the same.

Sec. 3. That section twenty-seven of the above recited act, shall hereafter read as follows: "Sec. 27. That every sheriff in a settlement of his account with the Comptroller shall be entitled to a compensation on amount by him collected and paid into the treasury for the use of the State, of eight per cent. on the first five thousand dollars, and five per cent. on all sums over five thousand and not above fifteen thousand dollars; and three per cent. on all amounts over fifteen thousand dollars; and on a settlement of his accounts with the county treasurer of his county, one-half of the like per cent. on the amount collected by him, and paid into the treasury for the use of the county; sheriffs or their deputies shall be allowed and paid for distraint under this act what they are allowed and paid for like services in civil suits, to be paid by the delinquents; and shall also be allowed and paid ten cents per mile for every mile necessarily and actually traveled by them in going to and returning from the capital, in order to make their annual settlements, and pay into the treasury the taxes collected by them. That justices of the peace, who assess the property, shall be allowed, and paid, a commission of five per cent. on the whole amount of taxes assessed by them, and shall be allowed no other fees or commissions, provided that of the whole amount due for assessing the taxes for any one year in any county in this State, the State shall pay two-thirds and the county one-third; the amount due by the State for assessing in any county in this State to each justice respectively, shall be settled by the Comptroller drawing his warrant in favor of each justice respectively on the Treasurer of the State, which said warrant shall be paid by the sheriff of the county, out of the first State taxes collected by him on such assessment; and the sheriff shall be allowed to retain three-fourths of his commissions in his hands for collecting, and, on final settlement, shall be allowed the other fourth; provided, no

sheriff shall be allowed over five thousand dollars for collecting any one year's taxes; nor shall any assessor be allowed to receive over one thousand dollars for any one year's assessment.

Sec. 4. That clause one, of section twenty-one of the above recited act, shall hereafter read as follows: "Clause 1. The property of all railroad and telegraph companies, situated in this State, shall be rendered for the purposes of taxation to the justice of the peace of the precinct where the domicile, principal office or place of business of such company may be situated.

The lists returned by railroad and telegraph companies shall show, as provided in this act for the property situated in each particular county, the property situated within the limits of any incorporated town or city in this State; the mayor or other executive officers of such incorporated town or city shall certify, as required of the presiding justice of each county in clause eighteen of this section, the general and special taxes assessed by such corporation on such property each year; and the Comptroller shall cause said taxes due such city or town, to be assessed and collected on such property, for the use and benefit of said town or city, as is directed in this act, for special and general taxes on the property of railroads and telegraphs for the several counties; and the value on which said town and city taxes are to be assessed and collected by the Comptroller shall be ascertained in the same way he ascertains the value on which the taxes are to be assessed in favor of the several counties under this act. It is further declared that the uncompleted road bed of any railroad company in this State, on which the iron is not laid, shall not be taxable under this act; the lists required by the sheriffs to be made by this act, of the property of railroads and telegraph companies, each year, in their respective counties, shall not be made except on the special order of the Comptroller; the taxes from railroad and telegraph companies shall be due and payable when the other State and county taxes are due and payable by law; in proportioning the value of the rolling stock and moveable equipments of a railroad, a part of which is within the State, a part of the value of the entire rolling stock and moveable equipments of such road shall be taxable, as shall be proportionate to the number of miles of such road

in this State to the number of miles of said road out of the State.

Sec. 5. That section thirty-four of the above recited act shall hereafter read as follows: "Sec. 34. That it shall be the duty of the several justices of the peace in this State under the provisions of this act, or any law of the State in force at the time, under the instructions of the Comptroller, to make a supplemental assessment of all property not rendered for taxation, whenever required by the Comptroller, in their respective precincts, or property assessed in the same, and there shall be taken upon the rolls all unrendered lands, stating the owners of the same, if known; if not known, such facts shall be stated; all of which property not rendered by the party with the assessed value shall be returned to the Comptroller: when so returned, if any of said property shall appear to be rendered and assessed in any other county, such property shall be checked off of said roll. It is hereby made the duty of the Comptroller to furnish the justices of the peace in due time with the proper blank forms for assessment rolls, and to furnish the several sheriffs of this State with a sufficient number of blank tax receipts; for each abstract forwarded under this act to another county, the justices of the peace forwarding the same shall be entitled to a fee of forty cents, and for each of said abstracts received, assessments made and returned, the justice so doing shall be entitled to a fee of forty cents; these fees shall be added to the tax, and paid by the person against whom the tax is assessed, and such fees shall be paid by the State, and the certificate of the justice to whom they may be due, and the sheriff of his county that the same are correct, shall be sufficient authority for the Comptroller to draw his warrant on the State Treasurer for the amount, in favor of the interested party.

Sec. 6. That in the event of a failure of the assessor to return a complete list of all those subject to an occupation tax, the collector shall nevertheless collect the occupation tax from those whose occupation may not have been returned by the assessor, and if any person shall not have been regularly assessed, they may be assessed at any time in the manner prescribed by law.

Sec. 7. On or before the first day of May in each year the presiding justice of each and every county in this State shall forward to each and every other presiding justice of each and every other county in this State the rate of the

general ad valorem tax of his county for such year, and of all special county ad valorem taxes upon real property levied by such county for the year; such statement shall be under the hand and seal of such justice, and the county shall defray the expense when under this act land is rendered by the taxpayer situated out of the county of his residence; in making out the rates for such land situated out of the county, the general and special taxes as stated and set forth in the certificate, provided in this section, by the county where such real property is situated, shall be levied and collected for the use and benefit of such county, and shall be paid into the State Treasury for the benefit and to the credit of such county.

Sec. 8. That all laws and parts of laws in conflict with the provisions of this act are hereby repealed, and this act shall take effect and be in force from and after its passage.

Approved April 30, 1874.

CHAPTER CXXVI.

An Act to extend the time for the Construction of Works of Internal Improvements.

Whereas, By reason of the financial crisis, and the stringency of the money markets of the United States, many important works of internal improvement have been delayed, and in order to grant such reasonable extension of time as the circumstances seem to require:

Section 1. Be it enacted by the Legislature of the State of Texas, That the limitation of time required by their respective charters, and laws of the State, for the completion of any works of internal improvement, or particular sections or parts thereof, be and the same is hereby extended and enlarged for the term of twelve months in addition to that given in their charters or laws, for the completion of the same; provided, that nothing in this act shall be so construed as to revive any charter heretofore forfeited; provided, that this act shall not revive any right to subsidy of lands, money or bonds now lapsed or forfeited by reason of non-compliance, by any company with the terms of its charter or laws, by reason of which said company is

entitled to any subsidy of money, land or bonds, and provided, further, that any right of any company not now lapsed or forfeited is by this act extended; provided, the railway company known as the Galveston, Harrisburg and San Antonio Railway Company, chartered by an act passed July 27, A. D. 1870, shall not be entitled to the benefits of this act unless it shall build its road through the town of Seguin, and establish and maintain a freight and passenger depot within one-half mile of the court house in said town; provided, that the Gulf, Colorado and Santa Fe Railroad Company shall not be entitled to the benefits and provisions of this act, unless said company shall run and establish a depot within a half-mile of the towns of Gatesville, in Coryell county; Hamilton, in Hamilton county, and Comanche, in Comanche county.

Sec. 2. That this act shall take effect and be in force from and after its passage.

Approved April 30, 1874.

CHAPTER CXXVII.

An Act to annex a portion of the County of Harrison to the County of Marion, and to establish the boundary line between said Counties.

Section 1. Be it enacted by the Legislature of the State of Texas, That the line dividing the counties of Harrison and Marion shall hereafter be as follows: adopting the existing line between said counties from the east line of the State running in a westerly direction to the junction of the Big and Little Cyprus bayous; thence up said Little Cyprus bayou, along the center of the main channel through to the southwest corner of a survey of land made in the name of R. Maulding, the same being about four miles above the bridge over Little Cyprus, on the road from Jefferson to Marshall; thence westerly on a line parallel with the general course of Big Cyprus bayou, to the east line of Upshur county; thence north with said last named line to Big Cyprus; and all that territory lying north of said dividing line, shall be and become a part of the county of Marion.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved April 30, 1874.

CHAPTER CXXVIII.

An Act to extend the area and enlarge the County of Gregg.

Section 1. Be it enacted by the Legislature of the State of Texas, That so much of the territory of Rusk county as lies between the Sabine river and the following described lines, that is to say, beginning at the south-west corner of the present county of Gregg, and continuing the western boundary line, of said county southward, on the boundary line between the counties of Smith and Rusk, to a point due west from a stake fifteen miles due north from the center of the public square of the town of Henderson, in the county of Rusk; thence due east to said point; thence to a point on the Cherokee bayou, where the road leading from Camden to Henderson crosses said stream; thence north-east by a straight line to the town of Camden, on the Sabine river; thence up said river with its meanderings to the place of beginning, be, and the same is hereby detached from the county of Rusk and attached to and embraced within the county of Gregg.

Sec. 2. That within thirty days after the passage of this act, the surveyor of the county of Gregg, and the surveyor of the county of Rusk, or either of them, shall run and mark the boundary lines as contemplated in section one of this act, and shall deposit a copy of said survey with the clerk of the District Court of the county of Gregg, and shall also forward a copy of same to the Secretary of State.

Sec. 3. That this act take effect and be in force from after its passage.

Approved April 30, 1874.

CHAPTER CXXIX.

An Act to provide for the locating of County Seats in such counties of the State that are without County Seats.

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever any county in this State is without a county seat, the Governor of the State, upon proper representation being made to him of such fact, shall be,

and is hereby authorized to select a temporary county seat for such county, and after such selection, the courts of such county shall be holden at the county seat so selected, until the permanent location of the county seat as provided by law, shall have been made for such county; provided, that an election to permanently locate the county seat of such counties shall be ordered by the Governor within one month after the temporary selection of a county seat has been made.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved April 30, 1874.

CHAPTER CXXX.

An Act to define the Land Districts of Brown and San Saba.

Section 1. Be it enacted by the Legislature of the State of Texas, That the counties of Brown, Coleman and Reynolds, and the territory embraced in said counties, are declared to constitute the land district of Brown; and the principal office of said district shall be kept at the town of Brownwood, in Brown county; and the county surveyor of Brown county shall be the surveyor of said land district.

Sec. 2. That the counties of San Saba, McCullough, and Concho, and the territory embraced in said counties, are declared to constitute the land district of San Saba; and the principal office of said district shall be kept at the town of San Saba, in San Saba county; and the county surveyor of San Saba county shall be the surveyor of said San Saba land district.

Sec. 3. That the said surveyors of the land districts created by this act, shall, within one year from the passage hereof, and they are hereby required to procure certified transcripts of all surveys and locations of land made by legal surveyors in the counties embraced in their respective land districts, and transcripts of all records pertaining thereto, which shall be kept, and continue to be kept for all future surveys and locations, and all past surveys and locations in separate books for each county, and shall keep

the same in good condition at the respective principal offices of such districts.

Sec. 4. That this act shall take effect and be in force from and after its passage.

Approved April 30, 1874.

CHAPTER CXXXI.

An Act to authorize and require the Secretary of State to distribute certain books and documents.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Secretary of State be and is hereby authorized and required to distribute to the District Clerks of the several counties, one copy each of the following works: The General Laws of the Twelfth Legislature, called session, first session, and second session; General Laws of the Thirteenth Legislature.

Sec. 2. That the Secretary of State be required, on the application of the presiding justice of any county, stating that his county needs a copy of Sayles' Treatise, or any of the general or special laws, not heretofore received by the county, or having been received, are lost or destroyed, to forward the same as soon as possible to such presiding justice, for the use of the county.

Sec. 3. That the Secretary of State shall, upon application of the county court of any county, stating which volumes of the Texas Reports their county is in need of, and whether or not the said county has ever received such volumes of reports, and if such reports have been received, the circumstances of the loss of the same, it shall be the duty of the Secretary of State to forward to the district clerk of such county one volume each of such reports as may be on hand, giving preference to such counties as have never received said reports, and, secondly, to such as have lost their volumes of reports by conflagration or inundation.

Sec. 4. That the Secretary of State be, and is hereby authorized to exchange the Supreme Court reports of this State of numbers subsequent to the thirty-sixth volume, for the Supreme Court reports of other States, volume for volume, with the proper officers of other States; and such

volumes received in exchange shall be placed in the library of the Supreme Court, at the Capitol; provided, that not more than one copy of each volume of the Supreme Court reports shall be exchanged for under this act.

Sec. 5. That no distribution of books and documents shall be made under this act, which would reduce the number of copies of any one work in the office of the Secretary of State to less than twenty-five.

Sec. 6. That this act shall be in force from and after its passage.

Approved April 30, 1874.

CHAPTER CXXXII.

An Act to regulate the conduct of Public Officers in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall not be lawful for any district attorney, sheriff, deputy sheriff, constable, town or city marshal, police officer of State, or any city or town, or other officer within this State, to receive or accept from any person any sum of money, or any property or the representation of either as a condition upon which such person shall be liberated, or in settlement of any criminal or penal charge.

Sec. 2. Be it further enacted, That all district attorneys, sheriffs and their deputies, all constables and all other officers collecting moneys other than taxes, in the name or for the use of the State, shall report in writing under oath, to the respective district courts of their several counties on the first day of each term, the amounts of money that may have come to their hands since the last term of their respective courts. Said reports shall show the amount collected, from whom collected, and by virtue of what process collected.

Sec. 3. Be it further enacted, That it shall be the duty of all officers and other persons, such as named in section two of this act, to make a report to the respective police or county courts of this State, such as the report named in section two of this act, of all moneys collected for the county, at each regular term of said police or county court.

Sec. 4. Be it further enacted, That it shall be the duty

of all town or city marshals, or other officers or persons collecting money for or in the name of any city or town, to report to the mayor and board of aldermen of such city or town in this State, on the first Monday in each month. That said report shall be in all respects like the one named in section two of this act.

Sec. 5. That any officer or other person offending against the provisions of this act, so far as releasing any one from arrest, shall be deemed guilty of a felony, and on conviction shall be confined to hard labor in the penitentiary for a term of two years; and officers and other persons offending against or failing to comply with the provisions of this act, shall upon conviction by a court of competent jurisdiction, be fined in any sum not less than twenty nor more than two hundred dollars.

It shall be the duty of all district judges to give this act in charge to the grand juries: That any person who shall make a false report under the provisions of this act shall be deemed and held guilty of false swearing, and upon conviction shall be confined in the penitentiary for a term of not less than two nor more than five years.

Sec. 6. That this act shall take effect and be in force from and after the expiration of thirty days from its approval.

Approved May 1, 1874.

CHAPTER CXXXIII.

An Act to amend an act entitled "An Act prescribing the times of holding the District Courts in the several Judicial Districts in the State," approved August 10, 1870.

Section 1. Be it enacted by the Legislature of the State of Texas, That section fourteen of an act entitled "An Act prescribing the times of holding the district courts in the several judicial districts in the State," approved August 10, 1870, be so amended as to hereafter read as follows: "Sec. 14. That the district courts of the thirteenth judicial district shall be holden at the times hereinafter specified, to-wit: In the county of Parker on the first Mondays in October, February and June, and may continue in session three weeks; in the county of Jack on the fourth Mondays

in October, February and June, and may continue in session two weeks; in the county of Palo Pinto on the second Mondays in November, March and July, and may continue in session two weeks; in the county of Hood on the fourth Mondays in November, March and July, and may continue in session two weeks; in the county of Johnson on the second Mondays in December, April and August, and may continue in session until the business is disposed of.

Sec. 2. That for judicial purposes, the counties of Stephens, Shackelford, Jones, Young, Throckmorton and Haskell are hereby attached to the county of Jack.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved May 1, 1874.

CHAPTER CXXXIV.

An Act to define the Twenty-second Judicial District and to fix the times of holding the Courts therein.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Twenty-second Judicial District shall be composed of the counties of Gonzales, Guadalupe, Caldwell and Hays.

Sec. 2. That the terms of the district court of said district shall be begun and held as follows, viz: in the county of Caldwell on the first Mondays in January, the second Mondays in April, and the first Mondays in September of each year, and may continue in session three weeks; in the county of Gonzales on the fourth Mondays in January, first Mondays in May and the fourth Mondays in September of each and every year, and may continue in session four weeks; in the county of Guadalupe on the first Mondays in March, July and December, and may continue in session three weeks; in the county of Hays on the fourth Mondays in March and July and the first Mondays in November of each year, and may continue in session two weeks.

Sec. 3. That all writs and process issued by or from said courts are hereby made returnable in conformity to the provisions of this act.

Sec. 4. That all laws or parts of laws in conflict with this act are hereby repealed.

Sec. 5. That this act take effect and be in force from and after the first day of June next.

Approved May 1, 1874.

CHAPTER CXXXV.

An Act to repeal an Act entitled "An Act to change the line between the Counties of Burnet and Lampasas," approved June 2, 1873, and to define the boundaries between said Counties.

Section 1. Be it enacted by the Legislature of the State of Texas, That section one and two of an act entitled "An Act to change the line between the counties of Burnet and Lampasas," approved June 2, 1873, be and the same is hereby repealed, and the line between said counties remain as established by the act of February 5, 1852, defining the boundaries of Burnet county.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved May 1, 1874.

CHAPTER CXXXVI.

An Act to give State aid in the removal of Rafts and other obstructions from the Guadalupe and San Antonio rivers.

Section 1. Be it enacted by the Legislature of the State of Texas, That a board of three commissioners, to be appointed by the Governor—one from the county of Victoria, one from the county of Refugio, and one from the county of Calhoun—are hereby clothed and constituted with full power to contract for, superintend and control the removal of any and all rafts or timbers that may now be in the Guadalupe and San Antonio rivers below the town of Victoria.

Sec. 2. That said board of commissioners shall, within three months from the passage of this act, enter into contract with any responsible person or firm to remove from

the bed of said rivers below the town of Victoria any and all timbers and rafts (that now obstruct the passage of the waters of said rivers), in any manner that said contractors may deem proper, so that after such removal there shall be no obstacle or impediment to timber or drift wood coming from above, floating freely to the river's mouth.

Sec. 3. That whenever said timber or rafts are removed from said rivers, in accordance with the requirements of section two of this act, and said commissioners have inspected the river where said timbers or rafts had been, and approved of the work that had been done, and shall have filed with the Commissioner of the General Land Office a certificate setting forth the number of miles of said river from which said timber or rafts had been removed and the name of the person or firm having done the work, as required by this act, then the Commissioner of the General Land Office of the State shall issue or cause to be issued to the said person or firm, who are shown by said certificate to have removed and cleared out the obstructions in said rivers, eight land certificates, each for six hundred and forty acres of land, for each and every mile of said river so cleared of obstructions, and at the same rate for any fractional distance, which said certificates may be located, surveyed and patented on any of the unappropriated public domain of the State in accordance with the laws relating to the appropriating of the public domain to railroad companies; provided, that there shall not be more than twelve miles of obstructions removed from said rivers under this act, nor more than ninety-six land certificates of six hundred and forty acres each issued under this act; and provided further, that the State shall in no way be liable for any deficiency in the public domain.

Sec. 4. That the members of the board of commissioners created by the first section of this act shall receive for their services the sum of five dollars per day for each day employed in superintending and inspecting the removal of said rafts and timbers, to be paid out of the county treasury of the county from which they are respectively appointed; provided, they shall in no case be paid more than ten days' service for such labor or service.

Sec. 5. That the person or firm contracting with said board to remove said obstructions shall complete the work within two years from the passage of this act, and shall take no benefit for work done after that time.

Sec. 6. That this act shall take effect and be in force from and after its passage.

Approved May 1, 1874.

CHAPTER CXXXVII.

An Act providing for the removal of County Seats.

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever an election is held in any county under the provisions of an act, entitled "An Act to amend section two of an act concerning county seats," approved May 9, 1838, approved June 3, 1873, it shall require the vote of two-thirds of the qualified voters of said county at such election to remove the county seat of such county; provided, however, That if in any county the county seat shall have been established at a greater distance than five miles from the centre of said county, a majority of all the votes cast shall be sufficient for its removal; provided, that such removal shall be within the limits of five miles from the centre of said county; and provided further, that where an election shall have heretofore been held, or where an election shall hereafter be held in any county for the removal of the county seat thereof, no other election for such purpose shall be held in such county for the term of five years from the date of such election.

Sec. 2. That all laws or parts of laws in conflict with this act be and the same are hereby repealed; and that this act take effect and be in force from and after its passage.

Approved May 1, 1874.

CHAPTER CXXXVIII.

An Act to organize unorganized or disorganized Counties within the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That any unorganized or disorganized counties within the State shall hereafter be organized or re-

organized, as the case may be, as hereinafter provided for in this act; provided, that this act shall not apply to the organization of counties, organized by special act at this session of the Legislature.

Sec. 2. That upon the petition of one hundred and fifty qualified jurors or voters of the county desiring to organize or reorganize their county, to the county court of the county to which the same is attached for judicial or other purposes, asking that the necessary steps shall be taken by said court to organize or reorganize said county, as the case may be, it shall be the duty of said courts either at their regular or call term within twenty days after filing of said petition with said court, to divide said county, praying for organization or reorganization into five justices precincts, and to order an election be held at a suitable place in each precinct within thirty days thereafter, for one district clerk, one sheriff, five justices of the peace, one county treasurer, one county surveyor, and such other officers as may be provided for by law. Said court shall appoint one presiding officer for each precinct from among the qualified voters thereof to manage and conduct said election in such manner as a general election for county officers is conducted, and to proceed to make returns of same direct to the presiding justice of the court, ordering the election within ten days after said election is held.

Sec. 3. That it shall be the duty of said presiding justice within five days after return day of said election to proceed to count the votes and compare the same; to issue certificates of election to all officers elected, and to take all necessary bonds as provided by law, and administer the oath of office to each officer elect.

Sec. 4. That it shall be the duty of the district clerk, sheriff, justices of the peace, county treasurer, county surveyor, and all other officers of the county to which the county holding such election is attached for judicial or other purposes, to turn over to the proper officers thus elected within five days after said elected officers shall have been legally qualified to enter upon the duties of their respective offices, all books, records, maps, and all other county property belonging to said county thus organized or reorganized, and on failure to do so, shall be guilty of a misdemeanor in office; and upon trial before any justice of the peace having jurisdiction, or upon indictment in district court, shall be fined in the sum of not less than one hun-

dred nor more than one thousand dollars, or imprisoned not exceeding the term of one year.

Sec. 5. That all laws and parts of laws in conflict with this act, be and the same are hereby repealed, and that this act take effect and be in force from and after its passage.

Approved May 1, 1874.

CHAPTER CXXXIX.

An Act to amend section forty-four of "An act to encourage Stock Raising and for the protection of Stock Raisers," approved March 23, 1874.

Section 1. Be it enacted by the Legislature of the State of Texas, That section forty-four of "An act to encourage stock raising, and for the protection of stock raisers," approved March 23, 1874, shall be amended so as to read as follows: "Sec. 44. That the operation of this act be suspended in the following counties, until otherwise provided by law, to-wit: Anderson, Angelina, Bowie, Brazos, Burleson, Cass, Cherokee, Collin, Delta, Fannin, Freestone, Gregg, Grimes, Hardin, Harrison, Hopkins, Hunt, Houston, Henderson, Jasper, Kaufman, Leon, Lamar, Marion, Madison, Newton, Nacogdoches, Polk, Red River, Rockwall, Rains, Rusk, San Augustine, Shelby, Smith, Sabine, San Jacinto, Titus, Tyler, Trinity, Upshur, Van Zandt, Washington, Walker and Wood.

Sec. 2. That this act take effect from its passage.

Approved May 1, 1874.

CHAPTER CXL.

An Act to authorize the several Counties of this State to raise means to pay their present indebtedness.

Section 1. Be it enacted by the Legislature of the State of Texas, That any county in this State, which may have an outstanding indebtedness of five hundred or more dollars, at the date of the passage of this act, the county court of such county may, by an order, entered on the minutes of said court, require all persons holding the scrip of such county of any description, or any other claim or

liability against such county, liquidated by the order of such court, except bonds issued by the county, which bonds are not included in or effected by the provisions of this act, to present the same to the county court, at such times and places as may be designated in the order of such court. The county court shall designate in such order, that they will hold a court for the presentation of such claims, at a time not short of forty days after the date of such order, and not more than fifty days after the date of such order. They shall also designate a second meeting of the court for the presentation of such claims, not more than thirty days after the first meeting of the court, and shall also designate a third time for the meeting of the court for the purpose aforesaid, within the period of thirty days after the second meeting. At the first meeting herein required, the court shall remain open for two days, and each of the subsequent meetings at least for one day. The members of said court shall receive for the services aforesaid, the per diem pay now allowed by law, for the number of days they may be actually employed in this service, in no event to exceed five days. A copy of the order of the court required by this section, shall be published for thirty days prior to the first meeting designated by the court, in some one or more newspapers published in the county, and printed copies of said order shall be posted in at least three public places in each justice's beat of such county, for the time aforesaid. If there be no newspaper published in the county, then the printed copies posted as aforesaid shall suffice.

Sec. 2. The meetings of the county court, required by the first section of this act, shall all be had within a period of six months from the date of the original order made by the county court; and the provisions of this act shall cover all of the indebtedness of such county described in the first section of this act, up to the date of such order; and all the county indebtedness included in the first section of this act not presented to the court at the times and places designated in this act, shall be postponed in payment till after the payment of all presented; nor shall such unrepresented claims bear any interest.

Sec. 3. At the times and places designated by the county court, in its order, holders and owners of county scrip or other liabilities included in the first section of this act, shall present the same for approval and registration by

the court; all just and valid claims against the county shall on presentation, be approved and registered by the county court, by writing on said claim its number according to the order of presentation, and the words "approved" and "registered this the day of A. D. 187...", which endorsement shall be attested by the signature of the presiding justice of the courts, or the acting presiding justice. The county court shall, at the time of the approval of the claims or scrip, cause to be entered in the minutes of the court, the number of the claim, the date of approval, the amount of the claim, and to whom payable. No claim shall be paid under the provisions of this act, unless it is presented and endorsed, in accordance with the provisions of this act, nor shall the county treasurer of any county in this State pay any claim described or included in the first section of this act, after the county court has entered an order requiring presentation of such claims for registration; nor shall any county treasurer, sheriff or other collector of county taxes receive the same in payment of any county tax, or other debt or dues coming to the county. If any treasurer, or sheriff, or other collector shall violate the provisions of this section, he shall not be allowed, on settlement, any credit for such claim, and shall also be guilty of a misdemeanor, and on conviction for the same before any court of competent jurisdiction, shall be fined in any sum not less than the amount of the claim improperly received or paid by him, and not more than double the amount of the same, and shall be dismissed from office.

Sec. 4. Such claims after the date of their approval and registration shall bear interest at the rate of eight per cent. per annum till paid, and the county court of such county shall, upon the assessment of the taxable property of such county for the year in which they make such order, or if collections on such assessments has been partially made, then upon the next year's assessment, proceed to levy a special tax on the assessed value of all the real and personal property of such county, and upon occupations and professions taxed by the State, and upon the polls in said county, for the purpose of paying the principal and interest due on such registered claims. The ad valorem tax here authorized, shall, in no one year exceed one-fourth of one per cent. The income and occupation tax, for no one year shall exceed one-tenth of the tax so levied by the State, and the poll tax not more than fifty cents for

each poll in said county. If the tax levied by the county court for any one year is not sufficient to pay the principal and interest on such registered claims, the county court shall have the power to continue such levy, or so much thereof as may be necessary, until such claims are all paid. The county court may pay said claims by installments, but in no case shall the payment of such claims be extended beyond four years from the date of the first levy of taxes under this act, unless the amount of such claims are such that the maximum tax authorized by this act will not, in the period of four years, pay said claims and interest. The tax herein authorized shall be paid in money, or it may be paid in an approved and registered claim; provided, the levy was made to liquidate the entire amount of such approved and registered claims. The taxes herein authorized shall be assessed, levied, and collected as the general State and county taxes are assessed and collected, and the same remedy for so doing shall apply and be in force.

Sec. 5. If, after the payment of all approved and registered claims has been made, there is any of the fund left in the county treasury, such balance may be paid out on the order of the county court on claims which were not presented for registration as required by the county court; if none of such claims exist, then it may be appropriated by the county court for general county purposes.

Sec. 6. The money collected under the provisions of this act shall only be applied to the payment of the approved and registered claims described in the first section of this act, and for no other purpose, till the principal and interest of the same are fully paid.

Sec. 7. The sheriff, county treasurer, or any other officer authorized by law to collect the taxes levied under the provisions of this act, shall, once every three months, report to the county court the amount of the taxes collected by virtue of this act, who collected from, and the character of the funds such taxes were paid in.

Sec. 8. The county court, if the indebtedness authorized to be paid by the provisions of this act is ordered to be paid by installments, may prescribe the order and manner of payment, and the county treasurer shall observe and be governed by such order; and the county treasurer shall, once in every three months, report to the county court the disbursements made by him under the provisions

of this act, who said payments were made to, and the character of funds paid out.

Sec. 9. Any sheriff, county treasurer, or other officer authorized by law to collect or disburse any money under the provisions of this act, who shall violate any of the provisions of sections six, seven, or eight, of this act, shall be guilty of a misdemeanor, and on conviction before any court of competent jurisdiction shall, for each offense, be fined not less than twenty-five, nor more than one hundred dollars, and shall be dismissed from office.

Sec. 10. If, from any cause no quorum of the county court should be present at the time or times designated for the presentation of claims for approval or registration, any one or more of the members of the court present shall receive such claims, and at any subsequent meetings of said county court, a quorum being present, the court shall proceed to act on said claims so presented, as prescribed in the preceding sections of this act.

Sec. 11. That this act shall take effect and be in force from and after its passage.

Approved May 1, 1874.

CHAPTER CXLI.

An Act to attach the County of La Salle to Nueces Land District.

Section 1. Be it enacted by the Legislature of the State of Texas, That the unorganized county of La Salle be and is hereby, until the same shall be organized, attached to the Nueces land district for surveying purposes.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved May 2, 1874.

CHAPTER CXLII.

An Act concerning the Forfeiture of certain Sheep and Goats.

Section 1. Be it enacted by the Legislature of the State of Texas, That hereafter no sheep or goats shall be brought within the limits of this State for the purpose of grazing or

herding the same, unless such sheep or goats are owned by some person or persons who are citizens of or residents in this State, or citizens of some State of the United States; and any such sheep or goats that may hereafter be brought into this State, in violations of the provisions of this act, shall be forfeited to the county in which the same may be kept for the purpose of grazing or herding; provided, this act shall not apply to persons owning land in the State nor to prevent them from herding on the same; provided, this act shall not be in force in the county of El Paso until provided by law.

Sec. 2. That any sheep or goats that are now kept within the limits of this State for the purpose of grazing or herding, and that are not owned by any person or persons, who are citizens of or residents in this State, or citizens of some State of the United States, shall be forfeited to the county in which they may be so kept, unless the same shall be removed from the State or sold to some person or persons who are citizens of or residents in the State, or citizens of some State of the United States, within the period of six months from the date of the approval of this act.

Sec. 3. That the district attorney of each judicial district shall, upon being informed, by affidavits or otherwise, of a violation of any of the provisions of this act, proceed by information and other legal proceedings before the district court to determine such forfeiture; and for which the district attorney shall be entitled to one-fourth of said forfeiture; the remainder shall be paid to the county, of which one-sixth shall be paid to the informant or informants, whose name or names, together with the amount to be paid him or them, shall be set forth in the judgment of the court declaring such forfeiture.

Sec. 4. That whenever the district attorney shall file in the office of the district clerk a petition or information, charging a violation of any of the provisions of this act, it shall be the duty of the clerk to issue a writ to the sheriff or other lawful officer of the county, commanding him to take possession of such sheep or goats against which the petition or information is so filed, and such officer shall hold the same until a final determination of such proceedings.

Sec. 5. That whenever any of such sheep or goats as described in sections one and two of this act are not kept permanently in any county, but ranging from one county

to another, the same may be seized in any county where they may be at the time of the institution of the proceedings heretofore provided for.

Sec. 6. That the State shall not be liable for any costs arising from such proceedings.

Sec. 7. That this act take effect and be in force from and after its passage.

Approved May 2, 1874.

CHAPTER CXLIH.

An Act for the Protection of the Wool-Growing interest of the State.

Section 1. Be it enacted by the Legislature of the State of Texas, That if any person shall drive or graze upon any public road of this State or upon any land not owned or rented by himself any sheep affected with the disease commonly known as the scab, he shall be deemed guilty of a misdemeanor, and may be prosecuted therefor before any justice of the peace in the county where such offense is committed, and upon conviction thereof, he shall be fined in a sum not less than twenty-five cents, nor more than one dollar a head for every sheep there may be in the flock among which any sheep affected with such disease, and which are so driven or grazed.

Sec. 2. That whenever an oath or affirmation shall be filed with any justice of the peace in this State, that such an offense as that described in the next preceding section has been committed in his county, it shall be his duty to issue a writ directed to the sheriff or any constable of the county in which such offense is charged to have been committed, commanding him to seize and bring before him forthwith any person or persons charged by such oath or affirmation with being guilty of such offense; and also commanding him to seize and securely keep apart from all other sheep, all of the flock of sheep among which any sheep are so charged to be affected with such disease, to be driven or grazed, subject to the further order of such justice.

Sec. 3. That whenever any person or persons shall be arrested and brought before a justice of the peace, under the next preceding section, it shall be the duty of said

justice to proceed and hear, and try, such person or persons, at as early a day as the same can be conveniently done, in like manner as other misdemeanors are tried before justices of the peace, and upon the conviction of any such person or persons, it shall be the duty of such justice, after giving judgment for the fine and costs, in case the same are not paid, to make a further order to the sheriff or any constable of the county, directing him after ten days notice at three public places in the county, to sell to the highest bidder for cash, so many of the flock of sheep among which any shall be so found to be afflicted with such disease, as may be necessary, and from the proceeds of such sale to pay the judgment of said justice, and all costs attending the seizure and safe keeping of such sheep, and if any of the proceeds of such sale shall be left, to pay the same to the owner or owners of such flock.

Sec. 4. That one-half of all the fines that may be collected under this law shall be paid to the person or persons who make the oath or affirmation upon which the proceedings are commenced under which such fines are collected, and the other half shall be paid into the county treasury.

Sec. 5. That all reasonable expenses that may be incurred in the safe-keeping of any flock seized under this act during the pendency of the proceedings, shall be taxed by the justice trying the cause, and shall be included and collected with the bill of costs.

Sec. 6. That this act shall take effect and be in force six months after its passage.

Approved May 2, 1874.

CHAPTER CXLIV.

An Act to validate the acts of certain Notaries Public.

Section 1. Be it enacted by the Legislature of the State of Texas, That the official acts of all duly appointed notaries public in this State heretofore done and performed in pursuance to law shall be as valid and binding as though said notaries had been duly commissioned by the Governor and confirmed by the Senate.

[Sec.] 2. That this act take effect from and after its passage.

Approved May 2 1874.

CHAPTER CXLV.

An Act to regulate Life and Health Insurance Companies, and all Associations, Partnerships, or Individuals doing Life and Health Insurance business incorporated within or without the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall not be lawful for any person or persons to act within this State as agent or otherwise, in prosecuting or receiving applications for life insurance, or in any manner to aid in the transaction of the business of any life or health insurance company incorporated in this State or out of it, without first procuring a certificate of authority from the comptroller of the State; and before obtaining such certificate, such company, association, individual, agent or agents, shall furnish the comptroller with a statement, under oath, of the president or secretary of said company, association, or individual, for which he or they may act, which statement shall show:

1. The name and locality of the company or association.
2. The amount of its capital stock.
3. The amount of its capital stock paid up.
4. The assets of the company, including, first, the amount of cash on hand and in the hands of agents or other persons; second, real estate unincumbered; third, the bonds owned by the company or association, and how they are secured, with the rate of interest thereon; fourth, debts due to the company secured by mortgage; fifth, debts otherwise secured; sixth, debts for premiums; seventh, all other moneys or securities.
5. The amount of liabilities due or not due to banks or other creditors of the company or association.
6. Losses adjusted and due.
7. Losses adjusted and not due.
8. Losses unadjusted.
9. Losses in suspense and waiting for proof.
10. All other claims against the company or association.
11. The act of incorporation of such company, association, by laws, articles of association or partnership agreements, which statements shall be filed in the office of the comptroller, together with a resolution under the seal of the company, signed by the president of the company, secretary, or chief officer of the association, authorizing

any agent duly appointed by resolution, under the seal of the company, to acknowledge service of process for and in behalf of such company or association, consenting that service of process upon any agent shall be taken and held to be as valid as if service upon the company or association, according to the laws of this State or any other State, and waiving all claims of error by reason of such service; provided, that upon the passage of this act, suits may be commenced against such company or association in any county of this State where loss has occurred by process, as in other cases served upon any authorized agent or attorney of such company, and such process may run into and be served upon such agent or attorney in any county of this State where such agent or attorney may be.

Sec. 2. No insurance company unincorporated or incorporated, in this State, or any other State, shall transact any business of insurance in this State unless such company is possessed of at least one hundred thousand dollars of actual capital invested in stocks or bonds and mortgages, or other satisfactory evidence of security, the market values of which shall not be less than one hundred thousand dollars.

Sec. 3. No corporation formed under any law of this State, concerning life insurance, shall adopt the name of any existing company or association transacting the business mentioned in the first section of this act, nor any name so similar thereto as to be calculated to mislead the public.

Sec. 4. Upon the filing of the resolution and statement as set forth in section one of this act, and furnishing the comptroller with full and satisfactory evidence of such investment as aforesaid, it shall be the duty of the comptroller to issue a certificate thereof, with authority to transact business of insurance to the company, its officers, agent or agents, applying for the same.

Sec. 5. It shall be the duty of the company, association, firm, or individual, its officers and agents, to renew annually, or on the first day of January in each year, or within sixty days thereafter, the statement set forth in the first section of this act; and the comptroller, on being satisfied that the capital, securities and investment remain secure as at first, shall furnish a renewal of the certificate as aforesaid.

Sec. 6. No company organized under the provisions of

this act shall undertake any business or risks, except as herein provided; and no company organized or incorporated by or under the laws of this State, or of any other State of the United States, or of any foreign government, transacting the business of life assurance in this State, shall be permitted or allowed to take any other kind of risks except those connected with or appertaining to making assurance on life, and the granting, purchasing and disposing of annuities and endowments; nor shall the business of life assurance in this State be in any wise conducted or transacted by any company which, in this or any other State or country, make insurance on marine, fire, inland or any other risks; provided, that no company now doing business in this State, and complying with the provisions of this act shall be prevented from continuing the same.

Sec. 7. Whenever the existing or future laws of any other State of the United States shall require of life insurance companies, incorporated by this State, and having agencies in other States, any deposit of (securities) in such State for the protection of policy holders or otherwise, then, and in every such case, all companies of such State establishing, or having heretofore established, agencies in this State, shall be and are hereby required to make the same deposits for a like purpose with the Treasurer of this State.

Sec. 8. No such company incorporated by, or organized under the laws of any foreign government shall transact business in this State, unless it shall first deposit, and keep deposited, with the Treasurer of this State, for the benefit of the policy holders of said company, citizens or residents of the United States, bonds or securities of the United States, or of the State of Texas, to the amount of one hundred thousand dollars; and such deposits shall be held liable to pay the judgments of policy holders in said company, and may be so decreed by the court adjudicating the same; provided, that if such deposit has been made in any other State of the United States, under the laws thereof, in such manner as to secure equally all the policy holders of such company, citizens and residents of the United States, no deposit shall be required in this State; but a certificate of such deposit shall be filed with the Comptroller of the State in like manner as required in the first section of this act in regard to companies organized

under the laws of the United States, and of other States of the United States.

Sec. 9. The several foreign life insurance companies, and those incorporated out of this State in all cases where a loss occurs, and when they refuse to pay the same within the time specified in the policy, shall be liable to pay the holder of said policy, in addition to the loss, not more than twelve per cent. on the liability of said company for said loss; also all reasonable attorney's fees for the prosecution of the case against said company; and should any such company fail to pay off and satisfy any execution that may lawfully issue on any final judgment against said company within thirty days after notification of the issuance thereof, then and in that event the certificate issued to said company, shall immediately become null and void, and said insurance company shall be prohibited from transacting any business in this State until said execution shall be fully satisfied and discharged.

Sec. 10. All persons violating any of the provisions of this act, on conviction thereof, before any court of competent jurisdiction in this State shall be fined not less than five hundred dollars, nor more than one thousand dollars for each and every offense.

Sec. 11. That this act take effect and be in force from and after its passage.

Approved May 2, 1874.

CHAPTER CXLVI.

An Act to create a Lien in favor of Proprietors of Livery or other Public Stables.

Section 1. Be it enacted by the Legislature of the State of Texas, That proprietors of livery or public stables shall have a special lien upon all animals placed with them for feed, care and attention, as also upon such carriages, buggies or other vehicles as may have been placed in their care for the amount of the charges against the same, the said lien therein provided to be enforced as in all other cases; and hotel and boarding house keepers have the same lien upon all property or baggage deposited with them.

Sec. 2. That this act take effect from its passage.

Approved May 2, 1874.

CHAPTER CXLVII.

An Act to amend an Act approved March 4, A. D. 1871, entitled "An Act to amend an Act prescribing the times of holding the District Courts in the several Judicial Districts in the State," approved August 10, 1870.

Section 1. Be it enacted by the Legislature of the State of Texas, That the second section of the above recited act is hereby amended so as to read as follows: That the district courts of the Thirty-second Judicial District shall be holden at the times hereinafter specified, to-wit: in the county of Williamson on the first Mondays in November, March and July, and continue in session four weeks; in the county of Burnet on the first Mondays after the fourth Mondays in November, March and July, and may continue in session for two weeks; in the county of Llano on the third Mondays after the fourth Mondays in November, March and July, and may continue in session one week; in the county of San Saba on the fourth Mondays after the fourth Mondays in November, March and July, and may continue in session one week; in the county of Brown on the fifth Mondays after the fourth Mondays in November, March and July, and may continue in session one week; in the county of Lampasas on the sixth Mondays after the fourth Mondays in November, March and July, and may continue in session until the business is disposed of. That for Judicial purposes the counties of McCullough and Concho shall be attached to San Saba county.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved May 2, 1874.

CHAPTER CXLVIII.

An Act to protect the enclosed lands of any person from trespass, by shooting, hunting, fishing or fowling.

Section 1. Be it enacted by the Legislature of the State of Texas, That any person who shall shoot, hunt with firearms or otherwise, fish or fowl upon land within the enclosed bounds of any other person, without license from

the owner or proprietor, shall be fined in the sum of ten dollars for each offense upon complaint before the justice of the peace in whose precinct the land is situated; and the same person shall, upon the third conviction, be fined in the sum of twenty dollars for the third offense, and the like sum of twenty dollars for each subsequent offense; provided, that the owner, or proprietor of such land shall give notice that he will claim the protection of the law, by posting notices to that effect twenty days previous to the time he claims such protection, at three public places in the county, one of which shall be at the county seat, and shall also erect and keep standing posts or stakes at the corners of such enclosed land, and at the principal entrances thereto, upon which shall be attached a board plainly marked "posted."

Sec. 2. That all fines recovered under this act shall belong to the county in which the land is situated; and that this act shall take and be in force from and after its passage.

Approved May 2, 1874.

CHAPTER CXLIX.

An Act supplemental to "An Act to create the County of Lee," approved April 14, 1874.

Section 1. Be it enacted by the Legislature of the State of Texas, That all the territory now forming a portion of the county of Burleson, and comprised and embraced within the boundaries herein described, to-wit: beginning at the most northern north-west corner of the county of Lee, at the point where the dividing line between Burleson and Milam county crosses the north-east boundary line of the Richard Ross survey; thence with the Burleson county line to the most western corner of Burleson county in the north-east boundary line of Bastrop county; thence with the dividing line between Bastrop and Burleson county to the point where said line crosses the third (3) Yegua, which is the most western north-western corner of Lee county; thence with the direct line designating the boundary line of Lee county as provided in the bill to which this a supplement, to the place of beginning, be and the

same is hereby detached from Burleson county, and added to and declared a part of Lee county; and said territory and its inhabitants shall be subject to the provisions of the act creating the county of Lee, and entitled to all of its privileges.

Sec. 2. That F. S. Wade and V. B. Shearn be and are hereby appointed additional commissioners to aid and assist in the organization of the county of Lee; and in addition to the duties required of the commissioners, in the said act to create the county of Lee, they may, if they see proper, and the same be expedient, provide for the accurate designation of the lines of said county as established.

Sec. 3. That this act shall take effect and be in force from and after its passage.

Approved May 2, 1874.

CHAPTER CL.

An Act to enable Common Carriers to dispose of Unclaimed Freight or Baggage.

Section 1. Be it enacted by the Legislature of the State of Texas, That when any freight or baggage has been conveyed by a common carrier to any point in this State, and shall remain unclaimed for the space of three months at the office or depot nearest or most convenient to destination, and the owner, whether known or unknown, fails within that time to claim such freight or baggage, or to pay the proper charges, if any there be, against it, then it shall be lawful for such common carrier to sell such freight or baggage at public auction, offering each box, bale, trunk, valise or other article separately as consigned or checked.

Sec. 2. Thirty days' notice of the time and place of sale, and a description list of the packages to be sold, with names and numbers or marks found thereon, shall be posted up in three public places in the county where the sale is to be made, and on the door of the depot or warehouse, if any, where the goods are, and shall also give notice in at least one newspaper in the county, if any published therein, for thirty days before sale, and out of the proceeds of such sale the carrier shall deduct the proper charges on such freight or baggage, including costs of storing and costs of sale, and hold overplus, if any, to the order of the owner

at any time within five years, on proof of ownership made by the claimant, or his duly authorized agent or attorney.

Sec. 3. The carrier shall keep an account of sales, copy of the notice, a copy of the sale bill, and the expense thereof, proportioned to each article sold.

Sec. 4. If any perishable property or live stock shall be conveyed either as freight or baggage as aforesaid, and remain unclaimed until in danger of depreciation, or when such live stock is falling away because the carrier has not facility to feed and water the same, then the carrier may sell at public auction before having given five days' notice, required in section two of this act, for the best price it or they will bring, and apply the proceeds as aforesaid.

Sec. 5. That when any perishable matter shall be delayed while in transit from any cause whatever beyond the control of any party to whom the same may have been entrusted, until there is danger of loss or damage, it shall be the duty of the party having the same in charge to sell the same, either at public auction, as prescribed in the next preceding section, for the most it will bring, returning account of sale to the owner, when known, within thirty days, with any amount over and above the charges due on same; when the owner is not known, shall make said return to consignee.

Sec. 6. That this act shall take effect and be in force from and after its passage.

Approved May 2, 1874.

CHAPTER CLI.

An Act to amend "An Act to establish a Criminal Court in and for the Cities of Waco and Marlin, and defining the powers thereof," passed at the present session of the Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That section five of the above recited act be and the same is hereby amended so as to hereafter to read as follows: "Sec. 5. The terms of said courts shall be held as follows, to-wit: at Marlin, in the county of Falls, on the first Mondays in January, May and September of each year, and may continue in session for four weeks; at Waco, in McLennan county, on the first Mondays in

March, July and November of each year, and may continue in session until the business is disposed of.

Sec. 2. That this act take effect from and after its passage.

Approved May 2, 1874.

CHAPTER CLII.

An Act to repeal an Act entitled "An Act to enable the Comptroller of Public Accounts to settle with defaulting Revenue Officers," approved November 6, 1871.

Section 1. Be it enacted by the Legislature of the State of Texas, That the act entitled "An act to enable the Comptroller of Public Accounts to settle with defaulting revenue officers," approved November 6, 1871, be and the same is hereby repealed.

Sec. 2. That this act shall take effect and be in force from and after its passage.

Approved May 2, 1874.

CHAPTER CLIII.

An Act defining the Boundary Line between Hopkins and Wood Counties.

Whereas, The boundary line between the counties of Hopkins and Wood is not properly defined by law; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the line known as the D. O. Norton line be and the same is hereby declared to be the boundary line between said counties of Hopkins and Wood; provided, the same shall not interfere with Rains county as now defined.

Sec. 2. That all laws in conflict with this act are hereby repealed, and that this act take effect from and after its passage.

Approved May 2, 1874.

CHAPTER CLIV.

An Act prescribing the times of holding the District Courts in the Sixteenth Judicial District of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the district courts of the Sixteenth Judicial District shall be holden at the times hereinafter specified, to-wit: in the county Calhoun on the second Mondays in January and September and the first Monday in May, and may continue in session two weeks; in the county of Refugio on the second Mondays after the second Mondays in January and September, and the second Monday after the first Monday in May, and may continue in session one week; in the county of San Patricio on the third Mondays after the second Mondays in January and September, and the third Monday after the first Monday in May, and may continue in session one week; in the county of Aransas on the fourth Mondays after the second Mondays in January and September, and the fourth Monday after the first Monday in May, and may continue in session one week; in the county of Nueces on the fifth Mondays after the second Mondays in January and September, and the fifth Monday after the first Monday in May, and may continue in session three weeks; in the county of Victoria on the eighth Mondays after the second Mondays in January and September, and the eighth Monday after the first Monday in May, and may continue in session until the business is disposed of. That for judicial purposes the county of Duval shall be attached to the county of Nueces, and that all process of said courts issued returnable to the terms hereof, next ensuing after the passage of this act, shall be returnable to the terms herein prescribed.

Sec. 2. That an act entitled "An Act to amend an act prescribing the times of holding the district courts in the several judicial districts of the State, approved August 10, 1870," approved November 25, 1871, be and the same is hereby repealed, and that this act take effect and be in force from and after the fifteenth of May, A. D. 1874.

Approved May 2, 1874.

CHAPTER CLV.

An Act to amend an act entitled "An Act to authorize the holders of State Warrants to surrender the same to the State Treasurer, and to receive State Bonds in lieu thereof," approved May 30, 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That section one of the above recited act be amended, so as, hereafter, to read as follows: Section 1. "That the Governor be and he is hereby authorized to have printed coupon bonds of said State, of the denomination of one hundred dollars each, to the amount of one hundred thousand dollars; of the denomination of five hundred dollars, to the amount of one hundred and fifty thousand dollars; of the denomination of one thousand dollars, to the amount of two hundred and fifty thousand dollars; payable ten years from first day of January, 1874, but redeemable at the pleasure of the State, at any time after three years from their date, drawing interest at the rate of ten per cent. per annum, payable semi-annually in the city of New York, on the first days of January and July, of each year. which bonds shall be numbered consecutively from one upwards, to begin with the one hundred dollar bonds, and to end with the one thousand dollar bonds, and shall be signed by the Governor and Treasurer of the State, and countersigned and registered by the Comptroller of public accounts."

Sec. 2. That section two of the above recited act be so amended as to read as follows: Section 2. "Any holder of State warrants shall have the right to surrender them [them] to the State Treasurer, in sums of one or more hundred of dollars, and to receive in lieu thereof an equal amount of the foregoing bonds, in the following manner, viz: Upon application to the comptroller of public accounts he shall receive a deposit warrant requiring the treasurer of the State to receive the amount of the State warrants, with the amount of interest thereon, proposed to be surrendered, and to issue in lieu thereof the corresponding amount in the said State bonds. When such deposit warrant shall be presented to the State Treasurer, with a corresponding amount in State warrants, it shall be his duty to receive said State warrants, and countersign the deposit warrant, and issue in lieu thereof the above named

State bond for an equal amount, and the treasurer shall alter in writing the amount of the interest coupons to correspond with the date of delivery of said bonds, and he shall also write on all State warrants so surrendered, the word "cancelled," and sign his name thereto."

Sec. 3. The State Treasurer shall, on the first day of each and every month, make a written return to the comptroller, containing description of all deposit warrants, and State warrants that he has received, and all State bonds that he has issued under the provisions of this act; thereupon it shall be the duty of the comptroller and secretary of State immediately to examine and compare said report with the original deposit warrants and State warrants, and if found to be correct, they shall endorse the said report "approved," and sign the same, and cause the State warrants described in said report to be destroyed by fire. All such reports, when approved, shall be recorded in the comptroller's office.

Sec. 4. That section four of the above recited act, shall be so amended as hereafter to read as follows: Section 4. "When any of the said State bonds shall be issued by the treasurer, he shall immediately thereafter set apart and retain in the treasury, from the first money paid in on account of State revenue of any description, an amount sufficient to make the first semi-annual payment of interest on the same; and the treasurer shall immediately after the first day of January and July, in each year, set apart and retain in the treasury, from the first money paid in on account of State revenue of any description, an amount sufficient to make the next semi-annual payment of interest on all the said bonds then outstanding; and also on the first day of January, annually, after the issuance of any of the said bonds, set apart the two per cent. as a sinking fund for the redemption of the principal, as required by the twenty-third section of article twelve, of the State constitution. All moneys so set apart and retained in the treasury are hereby appropriated for the payment of the semi-annual interest on said bonds, as the same shall accrue and become payable; and it shall be the duty of the State Treasurer, in proper and due time, to have remitted to New York city, the necessary amounts to pay the semi-annual interest accruing on said bonds, on and after each first days of January and July, in each year; the money so set apart and retained in the treasury shall be used for no

other object, and this section shall continue in force, and be irrepealable until all the bonds issued under this act shall have been paid and discharged by the State."

Sec. 5. That section five of the above recited act be so amended as hereafter to read: Sec. 5. "Any bonds now outstanding against the State, under the above recited act, may be exchanged at par for the bonds authorized by this act, and nothing in this act shall be so construed as to invalidate the bonds now outstanding against the State under the act above recited."

Sec. 6. That section six of the above recited act be amended as hereafter to read: "Sec. 6. That the additional sum of one thousand dollars, or so much thereof as may be necessary, is hereby appropriated to pay for the printing of the bonds hereby authorized to be issued."

Sec. 7. That this act shall take effect and be in force from and after its passage.

Approved May 2, 1874.

CHAPTER CLVI.

An Act to amend sections nine (9), ten (10), eleven (11), fifteen (15), seventeen (17), twenty (20), twenty-two (22), and thirty-eight (38) of an act to establish and maintain a system of Public Free Schools in the State of Texas; passed April 30, 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That section nine (9) of the above recited act be amended so as to read as follows: "Sec. 9. It shall be the duty of the Superintendent of Public Instruction, upon receipt of the reports of the State Comptroller, as required in this act, to apportion to the counties the amount of the school fund to be apportioned to each county; said apportionment to be made on the first day of August of each year, or as soon thereafter as possible and upon the latest date within his reach; and he shall furnish an abstract of such apportionment to each county treasurer, county superintendent and the State Comptroller, and shall draw his order on the Comptroller in favor of each county treasurer, for the amount of school fund to which each county is entitled, and shall take each treasurer's receipt for the same.

Sec. 2. That section ten (10) of said recited act shall be amended so as to hereafter read as follows: "Sec. 10. "The Superintendent of Public Instruction shall perform all other duties required of him by the constitution, and shall be empowered to issue instructions and regulations, binding for observance on all officers and teachers, in all cases where the provisions of the school law may require interpretation, in order to carry out the designs expressed therein; also in cases that may arise in which the law has made no provision, and also where necessity requires some rule in order that there may be no hardships to individuals, and no delays or inconvenience in the management of school affairs. He shall receive an annual salary of three thousand dollars (\$3.000), and all necessary expenses for books, postage and stationery pertaining to his office. He shall be allowed one clerk, at a salary of one thousand eight hundred dollars per annum."

Sec. 3. That section eleven (11) of said recited act be amended, and read hereafter as follows: "Sec. 11. The State Comptroller shall keep a separate and distinct account of the school fund and of the interest, and the income thereof, from any source whatever. He shall, on or before the first day of January and the first day of July, of each year, report to the Superintendent of Public Instruction, making a complete exhibit of the school fund, of the moneys in the treasury, subject to apportionment, and the several sources from which they accrue, which reports shall be included in the reports of the Superintendent of Public Instruction. He shall draw his warrants on the State Treasurer in favor of any county treasurer, whenever such treasurer shall present the order drawn by the Superintendent of Public Instruction, in favor of such county, duly endorsed by said county treasurer."

Sec. 4. Section fifteen (15) shall be amended, and read hereafter as follows: "Sec. 15. On the last Saturday of each month the county superintendent shall meet all persons desirous of passing an examination for a certificate to teach at the county seat, at which time he shall examine all such applicants as to his or her competency and ability to teach orthography, reading in English, writing, arithmetic, geography, English grammar, history of the United States, and English composition; and no person shall be entitled to a certificate unless he or she is of a good moral character, and is well qualified to teach the above named branches;

and as compensation for such services he shall be allowed to charge each applicant the sum of three dollars (\$3.) for such examination; provided, that when a necessity exists in any school district, upon the recommendation of the trustees of such district, teachers of a lower grade may be employed."

Sec. 5. That section seventeen (17) of said recited act shall be so amended as to hereafter read as follows: "Sec. 17. The county superintendent may, when the convenience of the scholastic population requires it, allow such scholastic population to attend the schools in the adjoining districts, and for this purpose may, when necessary, establish schools near the lines of adjoining districts, for the benefit of the scholastic population living remote from the schools in their respective districts; provided, the transfer of such child or children, as above authorized, shall not change the place of their enumeration; and the pro rata of public school fund, and to which such scholastic population may be entitled, shall be paid over to the district in which they may attend school, under such regulations as may be established by the State Superintendent of Public Instruction; provided further, that the State Superintendent shall issue such instructions and regulations as will cause the parents of such scholastic population, so transferred, to contribute to the payment of the deficiencies in the district in which their child or children may attend school, in the same manner as though they were residents of such district."

Sec. 6. Section twenty (20) of said recited act shall be amended and read hereafter as follows: "Sec. 20. On the first Saturday of July of each year there shall be elected by the qualified voters of each school district in the State three trustees, who shall hold their office for one year, and until their successors are elected and qualified. Ten days' notice of the election for trustees shall be given, which notice shall be posted in at least three public places of the district, and shall specify the place where the election is to be held, and the time of opening and closing the polls; and said election shall be held between ten o'clock A. M. and four o'clock P. M. Should no election be held, or should there be a vacancy for any cause, the county board of directors shall appoint the trustees until the next election. Said three trustees shall constitute the board of

trustees for the school district, and shall select from themselves a president."

Sec. 7. That section twenty-two (22) of said recited act shall be amended and hereafter read as follows: "Sec. 22. The board of school directors of each county shall require the trustees of each school district immediately and within ten days after their election to take the scholastic census of the district, making separate lists of the white and colored children, and make a full report thereof, under oath, to the county superintendent; and the county superintendent shall forward a copy of said report to the Superintendent of Public Instruction within five days after receiving the said reports. The trustee or trustees taking the scholastic census shall be entitled to five cents for the name of each child reported, to be paid by the county treasurer upon the order or warrant of the county superintendent out of the public school fund apportioned to the county. Said board of school directors shall also require said trustees to provide the necessary schools and school houses for the scholastic population of the respective districts, separating the children and so arranging the schools and school houses that good order, peace and harmony may be maintained in the schools. Said trustees shall employ competent teachers for all the schools in their respective districts, and see that the schools are taught and properly conducted for at least four months in the year; provided, the free schools may continue for a longer period than four months, if the amount of the school fund is sufficient, or if the citizens of the district or sub-district, by payment of tuition or subscription, will supply the deficiency; and if the income derived from the public school fund apportioned to the school district shall, in any district, not be sufficient for this purpose, the board of directors shall levy an ad valorem tax upon all taxable property in said district sufficient to supply the deficiency."

Sec. 8. That section thirty-eight (38) of the above recited act shall be so amended as to hereafter read as follows: "Sec. 38. That whenever there may be in any school district a high school, college or university, the principal of such high school, or the president of such high school or university, shall have the privilege, with the consent of a majority of the trustees of the public free school, of incorporating the public free school as a preparatory department into such high school, college or university;

the principal of such high school, or the president of such college or university, contracting with said trustees to teach the children within the scholastic age such branches as are prescribed in this act for the teachers of the public free schools; and such principal or president shall have the right to receive into his high school, college or university, any number of students who are over the scholastic age, or who have progressed beyond the studies taught in the public free schools, at such rates of tuition as he may prescribe, and his patrons consent to pay; provided, said preparatory department of such high school, college or university shall be conducted under the control and supervision of the county board of directors; provided further, that in any school district where the trustees of said district find it impracticable for want of suitable buildings, or impossibility of obtaining teachers competent to instruct for the minimum time required by law, such trustees may contract with any private or public school of requisite qualifications for the instruction of all children within the scholastic age for the pro rata portion of the school fund, allowing such private or public schools the privilege of collecting their tuition fees exclusive of such pro rata portion of the school fund from the parents or guardian of such children willing and able to pay."

Sec. 9. That this act shall take effect and be in force from and after its passage.

Approved May 2, 1874.

CHAPTER CLVII.

An Act to amend the eighth section of "An act regulating Taxation," approved June 3, 1874.

Section 1. Be it enacted by the Legislature of the State of Texas, That section eight of the above recited act shall hereafter read as follows: "That it shall be the duty of every person, firm, corporation or association owning any of the property hereinafter mentioned, in this State, on the first day of January of each and every year, to render and return the same for taxation: First, all lands, whether titled, patented or located, and all lands held, owned or claimed, no matter by what tenure, title or claim. Second,

all land warrants, certificates, scrip or other evidences of claim against the State for land. Third, all railroads, railroad fixtures, tools, machinery, and material for the construction of railroads, telegraph lines, and all materials and apparatus used in telegraphing; all ships, steamboats, or other water crafts or boat of any description, whether propelled by steam, sail, or both; all street railroads, cars and fixtures belonging to the same; steam engines and machinery of every description, whether propelled by steam, water or horse power, or other power; all gas works and gas fixtures; all tools and implements used and belonging or appertaining to any trade or profession, above the value of fifty dollars; all buildings when the same does not belong to the owner of the soil on which it stands. Fourth, all State, county, town or city bonds; all shares or stock in monied or banking associations or institutions; all interests in fire or life insurance companies; all ferry boats, tackle, machinery and apparatus; all bridges and roads when tolls are charged or received; all safes, and all furniture in value above fifty dollars; all jewelry, pianos, watches, silver plate; all wagons, buggies, carriages, hacks, drays, carts, omnibusses. Fifth, cash on hand or deposited, and money at interest; all books of value above fifty dollars; horses, cattle, sheep, goats, hogs, mules, jacks, jennets, oxen. Sixth, merchandise of every description; diamonds; wharf and wharf privileges, and ship yards; provided, that there shall be exempt from taxation one year's supplies, products of the soil; all institutions of learning, and the property; all hospitals; all church property.

Approved May 2, 1874.

CHAPTER CLVIII.

An Act to amend an act, approved April 22, 1874, entitled "An act to repeal an act entitled an act to authorize Counties, Cities and Towns to aid in the construction of Railroads and other works of Internal Improvement," approved April 12, 1871.

Section 1. Be it enacted by the Legislature of the State of Texas, That the first section of the above recited act be so amended as to read as follows: "Section 1. That an act entitled "an act to authorize counties, cities and

towns to aid in the construction of railroads and other works of internal improvement," approved April 12, 1871, be and the same is hereby repealed; provided, that the counties of Comal, Bexar, Kendall, Bandera, Mason, Menard, Atascosa, Edwards, Wilson, Gillespie, Chambers, Liberty, Jefferson, Orange, Hardin, Polk, Tyler, Jasper, Newton, and Kerr, shall be exempted out of the provisions of this act, and the said act hereby repealed, shall remain in full force as to said counties; provided further, that the aforesaid act shall continue in force in the counties now comprising the thirtieth Senatorial District; and provided further, that the county of Galveston is hereby excepted and exempted from the provisions of repeal in this act, for the purpose of holding elections, and voting for or against taking and subscribing for stock in the Gulf, Colorado and Santa Fe Railroad under and by virtue of any proposition for such subscription for stock by said companies, under the provisions of the said act of April 12, 1871, which said act, for said purpose, shall apply and be in full force and effect as to said counties last named: provided, that the county of Galveston shall always have in said company a directory equivalent to the amount of stock taken by said county, in said railroad.

Sec. 2. That this act shall take effect and be in force from and after its passage.

[Note.—The foregoing bill was presented to the Governor of Texas for his approval, on the second day of May, A. D. 1874, and was not signed by him, or returned to the house in which it originated, with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—A. W. DeBerry, Secretary of State.]

CHAPTER CLIX.

An Act to regulate the manner of proceeding in the Supreme Court upon motions for rehearing.

Section 1. Be it enacted by the Legislature of the State of Texas, That the manner of proceeding in the Supreme

Court of said State upon motions for rehearing shall be as follows:

Sec. 2. Any party desiring a rehearing of any matter determined by said court, may, within fifteen days after the date of entry of the judgment or decision of said court, file with the clerk of said court his motion in writing for a rehearing thereof, in which motion the grounds relied upon for the rehearing shall be distinctly specified, and the names and residence of the counsel of the opposing party if known, and if not known, then the name and residence of the opposing party as shown in the record.

Sec. 3. Upon the filing of such motion with the clerk of said court, he shall make a certified copy of such motion and transmit the same by mail to the sheriff of the county in which the attorney or opposing party, as the case may be, is alleged in said motion to reside, together with a precept commanding said sheriff or other lawful officer of said county to deliver the copy of the motion to the persons, or one of them, named in such precept.

Sec. 4. Upon the receipt of such precept and copy of motion by the sheriff, it shall be his duty to deliver the copy of the motion to the persons, or one of them, named in said precept if found in his county, and to return said precept to the court from which it issued by mail, stating thereon at what time and to whom he delivered the copy of the motion, or that the parties named in the precept are not found in his county, as the case may be.

Sec. 5. At any time, after five days from the return of such precept, it shall be lawful for said Supreme Court to hear and determine such motion for rehearing, and not sooner.

Sec. 6. The clerks of the Supreme Court and sheriffs shall be allowed such fees for the services herein provided for as are now or may be allowed by law for similar services, to be taxed in the bill of costs as other costs of said court.

Approved May 2, 1874.

CHAPTER CLX.

An Act to regulate the times of holding the District Courts in the Twenty-fourth Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas, That the terms of the district court for the Twenty-fourth Judicial District shall hereafter be held as follows, to-wit: in the county of Maverick on the first Mondays in April, August and December, and may continue in session two weeks; in the county of Kinney on the third Mondays in April, August and December, and may continue in session two weeks; in the county of Uvalde on the fourth Mondays after the first Mondays in April, August and December, and may continue in session two weeks; in the county of Frio on the sixth Mondays after the first Mondays in April, August and December, and may continue in session one week; in the county of Atascosa on the seventh Mondays after the first Mondays in April, August and December, and may continue in session two weeks; in the county of Medina on the ninth Mondays after the first Mondays in April, August and December, and may continue in session two weeks; in the county of Bandera on the eleventh Mondays after the first Mondays in April, August and December, and may continue in session one week.

Sec. 2. That for judicial purposes the unorganized county of Dimmit shall be attached to the county of Maverick, and the county of Uvalde to the county of Frio, and all acts in conflict herewith be repealed.

Sec. 3. That this act take effect and be in force from and after the fifteenth day of July, A. D. 1874.

Approved May 2, 1874.

CHAPTER CLXI.

An Act to Reapportion the State of Texas into Congressional Districts.

Section 1. Be it enacted by the Legislature of the State of Texas, That until otherwise provided by law, the State shall be apportioned into the following congressional

districts, each of which shall be entitled to elect one member to the Congress of the United States.

Sec. 2. The following counties shall compose the first district, to-wit: Chambers, Liberty, Hardin, Jefferson, Orange, Polk, Tyler, Jasper, Newton, Trinity, Angelina, San Augustine, Sabine, Shelby, Nacogdoches, Cherokee, Houston, Anderson, Rusk, Smith, Panola and Henderson.

Sec. 3. The following counties shall compose the second district, to-wit: Harrison, Marion, Cass, Bowie, Upshur, Titus, Red River, Wood, Hopkins, Lamar, Delta, Fannin, Hunt, Rains, Van Zandt and Gregg.

Sec. 4. The following counties shall compose the third district, to-wit: Grayson, Collin, Kaufman, Dallas, Ellis, Johnson, Tarrant, Denton, Cooke, Montague, Wise, Parker, Hill, Hood, Erath, Palo Pinto, Jack, Clay, Wichita, Archer, Young, Stephens, Shackleford, Throckmorton, Baylor, Wilbarger, Hardeman, Knox, Haskell, Jones, Eastland, Callahan, Taylor and Rockwall.

Sec. 5. The following counties shall compose the fourth district, to-wit: Comanche, Coryell, Hamilton, Harris, Grimes, Montgomery, Walker, Madison, San Jacinto, Brazos, Robertson, Leon, Freestone, Limestone, McLennan, Navarro, Bosque, Falls, Waller, Fort Bend and Bell.

Sec. 6. The following counties shall compose the fifth district, to-wit: Galveston, Brazoria, Matagorda, Wharton, Austin, Colorado, Lavaca, Fayette, Washington, Burleson, Bastrop, Travis, Williamson, Milam, Burnet, Lampasas, Brown, Coleman, Runnels, San Saba, Concho and McCulloch.

Sec. 7. The following counties shall compose the sixth district, to-wit: Atascosa, Aransas, Bandera, Bee, Bexar, Blanco, Caldwell, Calhoun, Cameron, Comal, Dimmit, DeWitt, Duval, Edwards, El Paso, Encinal, Frio, Gillespie, Goliad, Gonzales, Guadalupe, Hays, Hidalgo, Jackson, Karnes, Kendall, Kerr, Kimball, Kinney, Llano, Mason, La Salle, Live Oak, Maverick, Medina, Menard, McMullen, Nueces, Pecos, Presidio, Refugio, San Patricio, Starr, Uvalde, Victoria, Webb, Wilson, Zapata and Zavalla.

Sec. 8. That this act take effect and be in force from and after its passage.

Approved May 2, 1874.

CHAPTER CLXII.

An Act authorizing Justices of the Peace to hold regular Terms of their Courts at such places in their Precincts as may suit the wants of the people.

Section 1. Be it enacted by the Legislature of the State of Texas, That the several justices of the peace throughout the State be, and are hereby authorized to hold sessions of their courts at any house or place in their precincts that such justices may consider the convenience of parties interested may require.

Sec. 2. That citations or other process from any justice of the peace shall distinctly name the house or place to which said citation or process is returnable; and causes shall be tried only at the place or house to which such process is returnable, unless by consent of parties.

Sec. 3. That this act shall take effect and be in force from and after its passage.

Approved May 4, 1874.

CHAPTER CLXIII.

An Act to provide for the traveling and other contingent expenses of the Quartermaster and Commissary of the Frontier Battalion.

Section 1. Be it enacted by the Legislature of the State of Texas, That the quartermaster and commissary of the frontier battalion be and is hereby allowed the [the] sum of one thousand five hundred dollars per annum for his traveling and other contingent expenses.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved May 4, 1874.

CHAPTER CLXIV.

An Act making Surveyors responsible for altering or changing established lines in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That any county surveyor or other surveyor, under pretence of running lines to designate other tracts of land, who shall willfully alter or change the old established lines of original grants or lands patented, or who shall alter or change the lines, or enter and divide improvements of lands held under legal titles by any one, in violation of the law now in existence for establishing lines and correcting surveys, shall be guilty of a misdemeanor, and shall be fined not less than one hundred dollars, nor more than five hundred dollars for each offense, and shall be liable for damages to the party injured.

Sec. 2. That this act shall take effect and be in force and after its passage.

Approved May 4, 1874.

CHAPTER CLXV.

An Act providing for the condemnation and sale of damaged or useless Arms, Equipments and Ammunitions belonging to the State.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Adjutant General, the Secretary of State, and the Attorney General, be and they are hereby constituted and appointed a board of survey for the condemnation of damaged and useless arms, ammunition and equipments belonging to the State. Said board to be called together by the Adjutant General whenever he may deem it advisable.

Sec. 2. That the Adjutant General of the State be and he is hereby authorized and empowered to sell all arms, ammunition and equipments which may be condemned by said board of survey; such sale to be made in any county in the State and to the highest bidder at public vendue; notice of the time and place of said sale having been given by publication for twenty days in such newspaper as may have the contract for such printing.

Sec. 3. That the proceeds arising from said sales shall be paid into the State Treasury by the Adjutant General, and that said Adjutant General shall report annually to the Governor all sales made by him under this act, and the amount realized from said sale.

Sec. 4. That this act take effect and be in force from and after its passage.

Approved May 4, 1874.

CHAPTER CLXVI.

An Act to amend Section Twenty-eight of an Act entitled "An Act prescribing the times of holding the District Courts in the several Judicial Districts in the State," approved August 10, 1870.

Section 1. Be it enacted by the Legislature of the State of Texas That section twenty-eight of the above recited act be so amended as to read hereafter as follows: That the district courts of the Twenty-seventh Judicial District shall be holden at the times hereinafter stated, to-wit: in the county of Travis on the first Mondays in June, October and February, and may continue in session seven weeks; in Bastrop county on the fourth Mondays in July, November and March, and may continue in session four weeks; and that this act take effect from and after its passage.

Approved May 4, 1874.

CHAPTER CLXVII.

An Act to prevent Frauds on the State.

Section 1. Be it enacted by the Legislature of the State of Texas, That any person or officer in this State, who shall contract with any person for his service or labor, or for any property of any kind, with the intent to charge the State of Texas with the same, and to do which, such person or officer has no authority by law, such person or officer shall be guilty of a misdemeanor, and on conviction by any court of competent jurisdiction, shall be fined in any sum not less than one hundred dollars, and not more

than two thousand dollars, and if the party so offending be an officer or employee of the State, the court or jury trying the case may remove such person from his office or employment.

Sec. 2. No officer or employee of the State shall receive any warrant, or draw any part of his salary from the treasury in advance of the performance of the service, and where a certain amount is appropriated for the salaries and expenses of any department of the State government, and the amount, estimating the cost of the present clerical force in such department will not be sufficient to pay the salaries of present clerks for the entire year, the head of such department is hereby required to discharge a sufficient number of such clerks, and to retrench the expenses as to make the amount appropriated sufficient to defray the salaries and the expenses of such department for the entire year: and it is further provided, that the State will not be responsible for the pay or service of any person, who is not by law authorized to be employed, or for any work, labor, or materials, not by law authorized.

Sec. 3. That this act be in force from its passage.

Approved May 4, 1874.

CHAPTER CLXVIII.

An Act making an appropriation to pay the Interest on the Bonded Indebtedness of the State, and the Interest on State Treasury Warrants.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of one hundred and fifty thousand dollars, or so much thereof as may be necessary be, and the same is hereby appropriated to pay the annual and semi-annual interest on the bonded indebtedness of the State, as also the interest on State treasury warrants whenever the same shall become due and payable.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved May 4, 1874.

CHAPTER CLXIX.

An Act to make an appropriation for a Librarian and Porter for the Supreme Court at Austin, Tyler, and Galveston, and for Furniture and Books for the Supreme Court at the same places.

Section 1. Be it enacted by the Legislature of the State of Texas, That one thousand dollars be, and the same is hereby appropriated out of any money in the treasury not otherwise appropriated, to pay the salary of a librarian and porter of the Supreme Court at Austin, Tyler and Galveston, and for furniture and record books for said court at the same places.

Sec. 2. That this act take effect from its passage.

Approved May 4, 1874.

CHAPTER CLXX.

An Act to amend an act, approved April 22, 1874, entitled "An Act to repeal an act entitled "An Act to authorize counties, cities and towns to aid in the construction of Railroads and other works of internal improvements," approved April 12, 1871.

Section 1. Be it enacted by the Legislature of the State of Texas, That section one of the above recited act be so amended to read as follows: "Sec. 1. That an act entitled "An Act to authorize counties, cities and towns to aid in the construction of railroads and other works of internal improvements," approved April 12, 1871, be and the same is hereby repealed; provided, that the counties of Comal, Bexar, Kendall, Bandera, Mason, Menard, Atascosa, Edwards, Wilson, Gillespie, Kerr, Kimball, Caldwell, Gonzales, and the several counties now composing the thirtieth Senatorial district shall be excepted out of the provisions of this act, and the said act hereby repealed shall remain in force as to the said several counties.

Sec. 2. That this act take effect and be in force from and after its passage.

[Note.—The foregoing bill was presented to the Governor of Texas for his approval on the second day of May, A. D. 1874, and was not signed by him or returned to the

house in which it originated, with his objections thereto, within the time prescribed by the constitution, and thereupon became a law without his signature.—A. W. De Berry, Secretary of State.]

CHAPTER CLXXI.

An Act to make appropriations for the support of the State Government, for the fiscal year beginning September 1, 1874, and ending August 31, 1875.

Section 1. Be it enacted by the Legislature of the State of Texas, That the following sums, or so much thereof as may be necessary, be and the same are hereby appropriated out of any moneys in the State treasury, not otherwise appropriated, for the support of the State Government, for the fiscal year beginning September 1, 1874, and ending August 31, 1875.

Executive Department.

For salary of Governor, \$5,000. For salary of Private Secretary, \$1,500. For salary of clerk, \$1,200. For recovering fugitives from justice, \$5,000. For printing proclamations, \$900. For telegraphing, \$300. For books and stationery, \$500. For postage \$200. For porter, \$300. For traveling expenses incidental on sale of bonds, \$300. For gardener, \$600. For repairs and furniture for mansion, \$800. For wood, lights, etc., \$500.—\$17,100.

State Department.

For salary of Secretary of State, \$3,000. For salary of chief clerk, \$1,800. For salary of two clerks, \$1,200 each, \$2,400. For books and stationery, \$1,000. For postage, \$500. For wood and lights, \$200. For public printing, \$50,000. For distribution of blanks, certificates and election proclamations, \$500. For one fender and porter, \$200. For one clerk from January 17, to May 1, 1874, \$437 50.—\$60,037 50.

Attorney General's Department.

For salary of Attorney General, \$3,000. For salary of clerks, \$3,000. For stationery, \$200. For postage, \$150. For wood and lights, \$100. For taking depositions, \$100. For fees in felony cases, \$1,000.—\$7,550 00.

Judiciary Department.

For salary of five Judges at \$4,500 each, \$22,500. For clerk's fees, \$500. For porter hire for nine months, \$350. For sheriff's attendance on courts, \$825. For fuel at Austin, Tyler and Galveston, \$300. For lights and postage, \$200. For books and stationery, \$400. For books for library at Austin, \$500. For salary of one criminal judge at Houston and Galveston, \$3,500. For salary of criminal judge at Marlin and Waco, \$2,500. For salary of Criminal judge at Dallas, McKinney and Sherman, \$3,500. For salary of thirty-five district judges, \$122,500. For salary of thirty-five district attorneys, \$35,000. For salary of one criminal court attorney, \$1,000. For costs to be paid sheriffs, clerks and district attorneys, \$20,000. For publishing decisions of Supreme Court, \$5,000.—\$218,575 00.

General Land Office.

For salary of Commissioner, \$3,000. For salary of chief clerk, \$1,800. For salary of receiver, \$1,800. For salary of examining clerk, \$1,200. For salary of translator, \$1,800. For salary of chief draughtsman, \$1,800. For salary of twenty assistant clerks at \$1,200 each, \$24,000. For salary of five assistant draughtsmen at \$1,200 each, \$6,000. For books, stationery and furniture, \$2,000. For porter hire, \$300. For wood, \$200. For postage, \$500.—\$44,400 00.

Treasury Department.

For salary of Treasurer, \$3,000. For salary of chief clerk, \$1,800. For salary of book keeper, \$1,500. For salary of night watchman, \$500. For books and stationery, \$250. For wood, \$100. For postage, \$100. For one porter for treasurer and comptroller, \$480. For publication of notice of payment on University lands, \$100.—\$7,830 00.

Department of Education.

For salary of Superintendent, \$2,500. For salary of chief clerk, \$1,200. For wood and lights, \$100. For telegraphing, \$25. For postage, \$100. For school directors, \$10,000. For school teachers, \$500,000.—\$513,925.

Comptroller's Office.

For salary of Comptroller, \$3000. For salary of chief clerk, \$1800. For salary of book-keeper, \$1500. For salary of tax clerk, \$1500. For salary of accountant, \$1500. For salary of fifteen clerks at \$1200 each, \$18,000. For books and stationery, \$2500. For telegraphing, \$300. For postage and distribution of assessment rolls, \$1000. For wood, \$200. For extension of building, \$2000. For one safe, \$500. For desks, \$250.—\$34,050.

Frontier.

For protection of the frontier of the State of Texas, for the year 1874, under an act passed by the Fourteenth Legislature, \$300,000.

Adjutant General's Department.

For salary of Adjutant General, \$2400. For salary of one clerk, \$1200. For telegraphing, \$100. For books and stationery, \$150. For rent of house for arms and ammunition, \$750. For services taking care of arms and ammunition, \$500. For postage, \$150. For wood, \$50.—\$5300.

Blind Asylum.

For salary of Superintendent, \$2000. For support of institution, \$10,000.—\$12,000.

Deaf and Dumb Asylum.

For salary of Superintendent, \$2000. For support of institution, \$10,000.—\$12,000.

Bureau of Immigration.

For salary of Superintendent, \$2000. For salary of one clerk, \$1500. For traveling expenses, \$500. For postage, \$1000. For stationery, \$250. For telegraphing, \$100. For salary of agent at Galveston, \$1500. For office rent, \$500. For wood, lights, etc., \$150. For printing and distribution of circulars, pamphlets, etc., in English, German and Bohemian, \$5000. For salaries of agents in States west of Mississippi river, \$1500. For traveling expenses of agents, \$500. For salary of agent in Southern States, \$1500. For traveling expenses of agents, \$500.—\$16,500.

Penitentiary.

For transportation of prisoners, \$25,000.

Lunatic Asylum.

For salary of Superintendent, \$2500. For salary of Assistant Superintendent, \$1500. For salary of steward, \$1200. For salary of matron, \$600. For salary of night watchman, \$500. For salary of three seamstresses at \$300 each, \$900. For salary of four chief attendants at \$300 each, \$1200. For salary of six assistant attendants at \$300 each, \$1800. For salary of three cooks and one laborer at \$400 each, \$1600. For salary of five laundresses at \$200 each, \$1000. For salary of two laborers at \$300 each, \$600. For salary of one gardener, \$300. For postage, books and stationery, \$300. For garden implements and seed, \$75. For provisions and freights, \$15,000. For dry goods and clothing, \$3000. For fuel and forage, \$1600. For furniture, \$600. For medical supplies, \$2000. For tools and blacksmithing, \$300.—\$36,575.

Geological Department.

For salary of Geologist, \$3000. For office and chemical supplies, \$500. For wood, \$50. For postage and lights, \$200. For traveling expenses, \$3000. For books and instruments, \$500.—\$7,250.00.

Pensions.

Old pensions, \$1975. Interest on bonds to pensioners, under the act of April 21, 1874, \$20,000. Payment of pensions under the act of April 21, 1874, from and after July 1, 1874, \$25,000.—\$46,975.

Miscellaneous.

For inscription of the names of those who fell at the Alamo, on bronze plates, or other durable material, to be inserted for preservation in Alamo moundment in the portico of the capitol, \$200.

Sec. 2. The appropriation herein made for the support of the free public schools in this State shall take precedence of an appropriation of four hundred thousand dollars made for the payment of the teachers of public free schools in this State, for services rendered prior to the first day of July, A. D. 1873, made at this session of the Legislature.

Approved May 4, 1874.

CHAPTER CLXXII.

An Act authorizing Counties, Cities, or Incorporated Towns, to establish Quarantine Ordinances, Rules or Regulations.

Section 1. Be it enacted by the Legislature of the State of Texas, That the board of aldermen, or the county court of any county, city or incorporated town on the gulf coast of Texas be, and is hereby authorized to pass or establish rules or regulations in regard to quarantine, restraining vessels and persons, not in conflict with the laws of this State and the United States.

Sec. 2. That this act shall take effect and be in force from and after its passage.

Approved May 4, 1874.

CHAPTER CLXXIII.

An Act to ascertain the deficiencies of the several departments of the State for the fiscal year ending the thirty-first day of August, A. D. 1874, and amounts due individuals, and to appropriate money to pay the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That the following sums or so much thereof as may be necessary, is hereby appropriated out of any money in the treasury, not otherwise appropriated, to pay the following deficiencies in the several departments of the State government, for the fiscal year ending the thirty-first day of August, A. D. 1874, to-wit:

For the Executive department, \$1300.

For the Comptroller's office, in part for salaries of clerks employed and to be paid from first of March last, \$8162.

For the Treasurer's office, \$1250.

For the Judiciary department, \$3500. To district clerk of Washington county for costs of court in case of the State of Texas vs. W. L. Wilkerson, and unknown heirs, etc., an action for escheat of land adjudged against the State, February term, 1874, \$60. Fees of Thomas M. Hunt, district clerk of Burleson county, for list of conveyances furnished justices of the peace, under section nine of tax law of 1870, \$150. For the office of superintendent education, to be paid from school fund, \$83,600. E. F. Hall, district clerk of Webb county, for list of conveyances, and making assessment rolls, under act of August 15, 1870, \$134. For salary of Hon. E. D. Pickett, special judge of the first judicial district, from February 9th, to March 16th, 1874, \$345.76. For the office of adjutant general, and ranging companies and minute men, \$150,000.

For the Lunatic Asylum, for subsistence and freights, \$12,900. For fuel and forage, \$1000. For dry goods, \$1000. For tools and blacksmithing, \$100.

For the Blind Asylum, \$2000.

For the Deaf and Dumb Asylum, \$3000.

For the Bureau of Immigration, \$9112.74. To meet this deficiency the sum of \$6612.87 of the appropriation of the \$30,000 made by the Twelfth Legislature, unexpended, and the sum of \$1000 for postage on European pamphlets, and the sum of \$1500 salary of agent at Castle Garden, made by the Thirteenth Legislature, all of which are unex-

pending, be, and the same are hereby transferred to and re-appropriated to cover this deficiency.

For money deposited in the treasury, due Benjamin Anderson, \$613.30. For the relief of S. B. Buckley, State geologist, under the administration of Governor Throckmorton, \$1675. For A. B. Norton, printing, \$783. For fees for district clerks, district attorneys and sheriffs, \$20,000. For C. R. Gibson, clerk, \$236. For J. T. King, sheriff of Ellis county, amount of reward offered by the Governor for the arrest of H. Ainsworth, \$500. For Thomas J. Wood, \$299. For Richardson, Belo & Co., to be paid out of common school fund, \$8486. For Cardwell & Walker, \$1200. For J. P. Newcomb & Co., \$1046. For George W. Smith, \$300. For Louis T. Valentine, \$300. For C. R. Hughes and C. H. Randolph, \$205. For Loomis & Christian, amount due for building, \$2406.34. For A. H. Cook, \$500. For Richard S. Walker, for publishing Supreme Court reports, \$2394. For O. H. Millican, for lightning rod for the capitol, \$160. Deficiency for geological department, \$3000.

Sec. 2. The Attorney General, Comptroller, and Secretary of State, and the Treasurer of the State, are hereby constituted a board to pass upon, revise and approve the various accounts that constitute the deficiencies and claims, or are supposed to constitute the several deficiencies and claims mentioned in the first section of this act. Any three members of said board are authorized to act, and they shall not allow any account or item of an account which was not authorized by some law of this State, existing at the time said count was contracted or accrued; and said board shall have full authority to reduce any of the accounts, for labor or materials, or for supplies, goods, wares or merchandise, to a just and equitable standard as to price or value; and for the ranging companies called out by virtue of the authority of Governor Davis, in 1873, the said board shall not make allowances for pay, forage, or supplies in excess of the limits prescribed in said circular letter of Governor Davis, and the Adjutant General; and said board shall have authority to require such proof of the justness of the various items and accounts herein provided for as they may see proper; and none of the accounts herein specified shall be paid, except the same are approved by said board, except amounts due clerks, district attorneys and justices of the peace, which shall be authenticated and

paid as now prescribed by law. The certificate of approval of said board shall be sufficient authority for the Comptroller to draw his warrant on the Treasurer for the amount due the interested party; provided, that should any of the amounts of deficits in this bill mentioned and specified, be found by said auditorial board to have accrued prior to the fifteenth day of January, A. D., 1874, then, in that case, it shall be the duty of said board, to proceed to audit said amounts, and to ascertain such amounts as may be due and unpaid; and said amounts so ascertained shall be paid out of the fund derived from sale of bonds to pay the floating debt of this State, by virtue of an act, entitled "An Act to provide money to pay the floating indebtedness of the State," approved. . . . A. D., 1874, and no other.

Sec. 3. That clerks of all the departments employed from the fifteenth of February, A. D., 1874, be paid out of the appropriations in this bill, and that this act take effect and be in force from and after its passage.

Approved May 4, 1874.

CHAPTER CLXXIV.

An Act supplemental to "An Act to make appropriations for the support of the State Government for the fiscal year beginning September 1, 1874, and ending August 31, 1875," passed May 2, 1874.

Section 1. Be it enacted by the Legislature of the State of Texas, That the amount appropriated in the above recited act for the defense of the frontier shall be held to apply for the purpose of frontier protection immediately after the passage of this act, and subject to be drawn on by the proper officers for the object indicated, in pro rata with other appropriations.

Sec. 2. That all laws and parts of laws conflicting with this act as far as this particular appropriation is concerned are hereby repealed; and this act shall take effect and be in force from and after its passage.

Approved May 4, 1874.

CHAPTER CLXXV.

An Act supplementary to an Act entitled "An Act to amend section forty-four of 'An Act to encourage Stock-raising, and for the protection of Stock-raisers,'" approved May 1, 1874.

Section 1. Be it enacted by the Legislature of the State of Texas, That section one of "an act to amend 'an act to encourage stock-raising and for the protection of stock-raisers,'" approved May 1, 1874, be so amended as to hereafter read as follows: "Sec. 1. That the operation of this act be suspended in the following counties until otherwise provided for by law, to wit: Anderson, Angelina, Bowie, Brazos, Burleson, Cass, Cherokee, Collin, Delta, Fannin, Freestone, Gregg, Grimes, Hardin, Harrison, Hopkins, Hunt, Houston, Henderson, Jasper, Kaufman, Leon, Lamar, Marion, Marion, Madison, Newton, Nacogdoches, Polk, Panola, Red River, Rockwall, Rains, Rusk, San Augustine, Shelby, Smith, Sabine, San Jacinto, Titus, Tyler, Trinity, Upshur, Van Zandt, Washington, Walker, and Wood."

Sec. 2. That this act take effect from its passage.

Approved May 4, 1874.

JOINT RESOLUTIONS.

[No. 1.]

Joint Resolution ratifying the amendments to Section Twenty of Article One, Bill of Rights; Section Two, Section Three and Section Four of Article Five; Section Twenty-eight, Section Forty and Section Forty-eight of Article Twelve of General Provisions of the Constitution of the State of Texas.

Whereas, The Legislature of the State of Texas, on the fourth day of June, A. D. 1873, passed by a vote of two-thirds a joint resolution proposing amendments to section twenty of article one, Bill of Rights; to section two, section three and section four of article five; section twenty-eight, section forty and section forty-eight of article twelve of general provisions of the Constitution of the State of Texas; and,

Whereas, Said proposed amendments were submitted to the consideration and vote of the people at the last general election held in the State on the second day of December, A. D. 1873; and,

Whereas, It appears that a majority of those voting upon said proposed amendments voted in favor of said amendments; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the said amendments to section twenty of article one, Bill of Rights; to section two, section three and section four of article five; section twenty-eight, section forty and section forty-eight of article twelve of general provisions of the Constitution of the State of Texas, which are as follows:

Section 1. Be it resolved by the Legislature of the State of Texas, That section twenty of article one, of Bill of Rights, of the Constitution of the State of Texas, be so

amended as to hereafter read as follows, to-wit: "Sec. 20. No power of suspending the laws in the State shall be exercised except by the Legislature."

Sec. 2. That section two, section three and section four of article five, of the said constitution, be so amended as to hereafter read as follows, to-wit: "Sec. 2. The Supreme Court shall consist of one chief justice and four associate justices, any three of whom shall constitute a quorum; they shall be appointed by the Governor, by and with the advice and consent of the Senate, for a term of nine years. All vacancies shall be filled for the unexpired term. If a vacancy shall occur, or a term shall expire, when the Senate is not in session, the Governor shall fill the same by appointment, which shall be sent to the Senate within ten days after that body shall assemble, and, if not confirmed, the office shall immediately become vacant. Sec. 3. The Supreme Court shall have appellate jurisdiction only, which, in civil cases and criminal cases, shall be co-extensive with the limits of the State. Appeal from interlocutory judgments may be allowed with such exceptions, and under such regulations as the Legislature may prescribe. The Supreme Court and the judges thereof shall have power to issue the writ of habeas corpus; and under such regulations as may be prescribed by law may issue the writ of mandamus and such other writs as may be necessary to enforce its own jurisdiction. The Supreme Court shall also have power to ascertain such matters of fact as may be necessary to the proper exercise of its jurisdiction. Sec. 4. The Supreme Court shall hold its sessions at the capital and two other places in the State."

Sec. 3. That section twenty-eight, section forty and section forty-eight of article twelve, of general provision of the said constitution, be so amended as to hereafter read as follows, to-wit: "Sec. 28. In each and every organized county in this State there shall be an assessor and collector of taxes elected by the people at the next ensuing general election, and every four years thereafter, who shall assess the property and collect the taxes so assessed in conformity to such laws as now exist, or may be enacted hereafter by the Legislature relative to the assessment and collection of taxes. Sec. 40. The Legislature shall not pass local or special laws in any of the following enumerated cases, that is to say, for locating or changing county seats, regulating county or town affairs, regulating the practice

in courts of justice, regulating the duties and jurisdiction of justices of the peace and constables, providing for changes of venue in civil and criminal cases, incorporating cities or towns, or changing or amending the charter of any city or village, providing for the management of common schools, regulating the rate of interest on money, remitting fines, forfeitures, or penalties, changing the laws of descent. In all other cases where a general law can be made applicable, no special law shall be enacted; or in any case where a general law can be made applicable, no special law shall be enacted. The Legislature shall pass general laws providing for the cases before enumerated in this section, and for all other cases which in its judgment may be provided by general laws, be and the same are hereby ratified as amendments to the Constitution of the State of Texas.

Sec. 4. That this resolution take effect and be in force from and after its passage.

I hereby certify that the within joint resolution No. 18 originated in the Senate, and passed the same by a two-thirds vote January 18, 1874.

J. F. Beall, Secretary of the Senate.

I hereby certify that the within joint resolution No. 18 passed the House by a two-thirds vote January 24, 1874.

W. O. Walsh,
Chief Clerk of the House of Representatives.

Received in Executive Office at 12 o'clock M., January 26, 1874.
Richard Coke, Governor.

Received State Department 12:40 o'clock P. M., January 26, 1874.
Geo. Clark, Secretary of State.

[No. 2.]

Joint Resolutions suspending the powers of the Mayor and Aldermen and other Officers of the City of Houston, in Harris County, in certain cases herein enumerated.

Whereas, it has been made known that the Mayor and Aldermen of the City of Houston, in Harris county, have

abused their authority by contracting unnecessary debts against said city and its inhabitants, by the issuance of the bonds of said city and otherwise, and contemplated increasing said indebtedness by the further issuance of such bonds, and by other means, therefore,

Be it resolved by the Legislature of the State of Texas, That from and after the passage of this resolution, and until thirty days thereafter, or until otherwise sooner provided by law, all power vested in the mayor and aldermen, and other officers of said city by the provisions of an act, entitled "An act to consolidate in one act and amend the several acts, incorporating the city of Houston, in Harris county," passed August 2, 1870, or by any other law, State or municipal, to contract debts against said city, or its inhabitants, to issue, or sign bonds, scrip, or any other evidence of indebtedness of, or against said city, or its inhabitants, or of delivering to any person or persons any of such bonds, scrip, or other indebtedness now issued, or to make or enter into any contract whereby any debt may be contracted against said city, or its inhabitants, for any purpose whatsoever, be, and the same is hereby suspended:

And be it further resolved, That no act done, or to be done by said mayor and aldermen, or other officers of said city, in contravention of this resolution shall be ever binding upon said city, or any of its inhabitants:

And be it further resolved, That this resolution shall take effect and be in force from and after its passage.

Approved January 20, 1874.

[No. 3.]

Joint Resolution making an appropriation to refurnish and repair the Executive Mansion.

Section 1. Be it resolved by the Legislature of the State of Texas, That an appropriation of one thousand dollars, or so much thereof as may be necessary, be, and the same is hereby appropriated out of any funds not otherwise appropriated, for the repairing, repainting, and refurnishing the executive mansion.

Sec. 2. That said amount of money appropriated in the first section of this resolution shall be paid out on vouchers approved by the board of public buildings and grounds.

Sec. 3. That this resolution take effect and be in force from and after its passage.

Approved February 13, 1874.

[No. 4.]

Joint Resolution returning thanks to the President for upholding the Right of Local Self Government in Texas.

Section 1. Be it resolved by the Legislature of the State of Texas, That the recent action of His Excellency, U. S. Grant, President of the United States, in declining to furnish troops to Edmund J. Davis, late Governor of Texas, to enable him to set at defiance the popular will, and to destroy popular government in our State, is a high recognition of the inherent right of local self government, and is duly appreciated by the people of Texas.

Sec. 2. Be it further resolved, That the Governor be, and he is hereby requested, to transmit a copy of these resolutions to His Excellency, the President, and also to our Senators and Representatives in Congress.

Approved February 14, 1874.

[No. 5.]

Joint Resolution setting apart certain Rooms in the Capitol Building for the use of the Senate and House of Representatives.

Section 1. Be it resolved by the Legislature of the State of Texas, That all of the rooms and their contents, which belong to the State, on the north side of the capitol building, except the room set apart for the Lieutenant Governor and those assigned to the Governor, shall be under the exclusive control of the Speaker of the House of Representatives; and those on the south side of the capitol building and their contents, which belong to the State, except those set apart for the use of the State department and the Adjutant General, shall be under the exclusive control of the President of the Senate.

Sec. 2. That this resolution take effect and be in force from and after its passage.

Approved February 16, 1874.

[No. 6.]

Joint Resolution instructing the Attorney General to bring suit against James Davidson, late Adjutant General, and to prevent the sale of property in this State, held in his name, until the termination of said suit.

Section 1. Be it resolved by the Legislature of the State of Texas, That it is hereby made the duty of the Attorney General to forthwith institute suit against James Davidson, late Adjutant General of the State, and his sureties, if any, to secure the amount found to be due the State from said Davidson.

Sec. 2. That it shall not be lawful for said Davidson, or any one for him, to sell, dispose of, or incur any property now held in the name of said Davidson, or owned by him, until the satisfaction of any judgment that may be recovered in such suit.

Sec. 3. That said suit may be brought in Travis or any other county of this State.

Sec. 4. That these resolutions take effect from the passage.

Approved February 25, 1874.

[No. 7.]

Joint Resolution declaring the second day of March and the twenty-first day of April legal Texas Holidays.

Section 1. Be it resolved by the Legislature of the State of Texas, That the second day of March, the anniversary of Texas independence, and the twenty-first day of April, the anniversary of the battle of San Jacinto, be, and they are hereby declared Texas holidays, and all the exemptions and requirements usual on legal holidays may be observed on these days.

Sec. 2. That this resolution shall take effect and be in force from and after its passage.

Approved March 2, 1874.

[No. 8.]

Joint Resolution to require the State Treasurer not to pay certain Warrants, except out of the funds especially provided for the payment of such Warrants.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Treasurer of the State is hereby instructed not to pay any warrants drawn on him by the Comptroller of Public Accounts dated before January 15, 1874, or which have been or may be issued after that date, based upon any indebtedness of the State which have accrued before that date, except out of funds especially provided for the payment of such warrants.

Sec. 2. Be it further resolved, That all outstanding warrants drawn by the Comptroller of Public Accounts upon the Treasurer of the State prior to the fifteenth day of January, 1874, or that have been or may be issued for any indebtedness of the State which had accrued prior to that date, may be registered with the Treasurer, and when so registered shall draw eight per cent. per annum interest from date of registration. The Treasurer shall keep a book, and record a list of said warrants in the same, until otherwise provided by law; and all warrants hereafter to be issued by the Comptroller shall specify for what account issued, and whether the indebtedness accrued before or after the fifteenth of January, 1874; provided, that these resolutions do not apply to or affect the payment of the interest upon the funded debt of the State; and provided further, such warrants, whether registered or not, shall be receivable as cash, at par, in payment for any bonds of the State, which the Governor is or may be authorized to sell, except those authorized to be sold to pay Williams & Guion.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved March 7, 1874.

[No. 9.]

Joint Resolution, asking our Senators and Representatives in Congress to procure an appropriation by Congress to improve the navigation of Soda Lake and Cypress Bayou.

Whereas, The increasing productions and commerce of this State make it essential that the facilities for transportation should be improved to meet the demands of the country, and

Whereas, Soda Lake and Cypress Bayous, tributaries of Red River, are the only reliable navigable streams in Eastern and Northern Texas, and which connect that portion of the State with the great navigable waters of the whole Union, and furnish speedy and cheap facilities for the interchange of commodities of this State, with the other sections of the country, and

Whereas, from the report of competent United States engineers it is found that at a cost of about the sum of three hundred thousand dollars (\$300,000) for the construction of locks and dams and improving the channels, the navigation of these streams and bayous can be made permanent, certain and reliable; and that the great floods from upper Red River can be diverted into these lakes, and much valuable lands be reclaimed from overflow above, and protected from overflow below, and a reservoir formed that will serve as a feeder for Red River during the summer months, and thereby perpetuate the navigation in said stream, therefore

Section 1. Be it resolved by the Legislature of the State of Texas, That each of our Senators and Representatives in Congress be furnished with a copy of these resolutions by the Secretary of State, and that they are hereby requested to use their efforts to procure an appropriation by Congress, of a sum sufficient to improve said navigation in said streams in such manner as the engineers may recommend, and

Sec. 2. Be it further resolved, That our Senators and Representatives be requested to urge Congress to make the city of Jefferson a port of entry and delivery.

Approved March 12, 1874.

[No. 10.]

Joint Resolution instructing and requesting our Congressional Delegation to urge upon Congress the speedy reimbursement of Henry Warren, for Losses incurred by reason of the destruction of his Wagon Train and other property, by the Comanche, Kiawa, and Cheyenne Indians.

Whereas, On the eighteenth day of May, eighteen hundred and seventy-one Henry Warren, a citizen of the State of Texas, being then engaged as a government contractor in the supplying of forage at the military posts of Forts Griffin and Richardson, and using in his business wagons and mules for the purpose of transporting said supplies of forage, had in service upon the public highway, between Jackboro, Texas, and Fort Griffin, Texas, and in the county of Young, a train of ten wagons loaded with forage for the United States Government, and engaged in the faithful performance of his contract, said property was totally destroyed, seven of the teamsters of the train, (all citizens of Texas), being brutally murdered without cause or provocation, and all the mules belonging to said train being taken and carried away by a party of marauding Indians from the Fort Sill reservation, under the leadership of Santanta and Big Tree, Kiawa chiefs, without any fault or negligence on the part of the said Henry Warren, to his great loss and detriment in business; and

Whereas, On the twenty-fifth day of August, eighteen hundred and seventy-one, another of the wagon trains belonging to the said Henry Warren, consisting of seven wagons loaded with forage for the United States Government, to be delivered at Fort Griffin, Texas, while on the public highway between Weatherford, Texas, and Fort Griffin, Texas, and in the county of Jack, was attacked by a party of marauding Cheyenne Indians, from the Cheyenne and Arapahoe agency, in the Indian territory, and twenty-two of the mules belonging to said train were taken and carried away by the said Indians, to the great loss and detriment in business to the said Henry Warren; and

Whereas, The said Henry Warren has by reason of the raids of the said Indians as aforesaid, sustained a loss and damage of thirty-six thousand four hundred and eighty-five dollars, (\$36,485,) as fully set forth by his claim, now on file in the Department of the Interior, and to be submitted to the action of the United States Congress; and

Whereas, A period of three years has elapsed since the losses and damages as aforesaid were sustained by the said Henry Warren, his said claims having been promptly presented with full and sufficient proof of their correctness and justness, and this long delay having worked a great hardship and loss in business to the said Henry Warren, and up to this late date the government having granted him no relief; and

Whereas, The said Indian chiefs, Santanta and Big Tree, leaders of the raid on said Henry Warren's property, and engaged in the murder of his teamsters as aforesaid, were arrested, duly tried and convicted by a court of competent jurisdiction, to-wit: the District Court of Jack county, State of Texas, and sentenced to death for their crimes as aforesaid, have been, at the special and urgent solicitation and request of officers and agents of the United States Government, released and set at large by the Executive of the State of Texas, and the said Santanta and Big Tree being still at large, suffering no punishment for their crimes, and the said Big Tree being frequently and actively engaged in further depredations on the lives and property of the citizens of the State of Texas; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That our Representatives in Congress be requested and our Senators instructed to urge upon the Congress of the United States the justness of the claims of said Henry Warren, as well as all other claims for similar depredations, which may be now on file in the Indian bureau, from citizens of the State of Texas, and the speedy passage of a bill or bills for their relief, reimbursing them for their losses incurred and damages sustained from these marauding Indians, from the United States Government reservation in the Indian territory.

Sec. 2. That the President of the Senate and Speaker of the House of Representatives be requested to have a certified copy of this joint resolution furnished to our Senators and Representatives in Congress.

Sec. 3. That this joint resolution take effect and be in force from and after its passage.

Approved March 20, 1874.

[No. 11.]

Joint Resolution.

Section 1. Be it resolved by the Legislature of the State of Texas, That a joint committee of three on the part of the House, and two on the part of the Senate, be appointed, whose duty it shall be to search out and investigate all cases of bribery, fraud, or corruption, which may have occurred since the year 1868, in any part of this State, connected with the affairs of legislation, railroads, the judiciary, executive, heads of departments, education, public buildings, and public printing, and if any case or cases of fraud appear from evidence, the facts shall be reported by the committee to each House for its consideration.

Sec. 2. That said committee shall sit in some suitable room, in the Capitol of the State, and are hereby empowered to send for persons and papers, administer the necessary oaths, and exercise all functions necessary to compel the attendance of witnesses and require them to testify under the common rules of evidence, and according to the law recently passed by this Legislature entitled "An Act to regulate the testimony of witnesses in cases of bribery."

Approved April 3, 1874.

[No. 12.]

Joint Resolution authorizing the Governor to settle the claim of George W. Paschal.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Governor is hereby authorized to settle with George W. Paschal for the twenty-ninth, thirtieth, and thirty-first volumes of Texas Reports, after deducting all offsets and credits for moneys in the hands of the said Paschal that may be found to be due to the State of Texas.

Sec. 2. Resolved further, That when the Governor shall find the amount of money due the said Paschal on settlement, he shall notify the Comptroller, whereupon it shall be the duty of the Comptroller to draw his warrant upon the Treasurer in favor of said Paschal or his attorney for such amount, which warrant the Treasurer is here-

by authorized and directed to pay out of any money in the treasury not otherwise appropriated.

Sec. 3. Resolved further, That this joint resolution shall take effect from its passage.

Approved April 4, 1874.

[No. 13.]

Joint Resolution making an appropriation for printing Reports of Departments.

Whereas, No appropriation has been made to pay for printing reports of departments for the use of the Fourteenth Legislature; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the sum of three thousand, six hundred and sixty-six dollars and fifteen cents (\$3666.15) be and is hereby appropriated out of any funds in the treasury not otherwise appropriated, to be drawn upon the warrant of the Comptroller.

Sec. 2. That this resolution shall take effect and be in force from and after its passage.

Approved April 4, 1874.

[No. 14.]

Joint Resolution authorizing the Governor to offer a reward of not exceeding three thousand dollars, for the apprehension of the highway robbers who robbed the passengers and United States Mail, on the San Antonio and Austin Stage, on the seventh April, 1874.

Section. 1. Be it resolved by the Legislature of the State of Texas, That the Governor be and he is hereby authorized to offer a reward not to exceed three thousand dollars for the apprehension of the three highway robbers that robbed the passengers and the United States mail, on the San Antonio and Austin stage, on the seventh April, 1874, to be paid out of any moneys in the treasury not otherwise appropriated.

Approved April 8, 1874.

[No. 15.]

Joint Resolution, empowering the Governor to employ Counsel to prosecute any persons, and to make an appropriation to defray the expenses in said prosecution.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Governor of the State, if he shall deem such employment necessary, be, and is hereby authorized to employ assistant counsel to assist in the prosecution of certain persons for frauds against the State. That the sum of five hundred dollars, or so much as may be necessary, is hereby appropriated out of any money in the treasury not otherwise appropriated, is hereby set apart and appropriated to defray the contingent expenses in carrying on said prosecution. That the Comptroller is hereby authorized to draw his warrant on the Treasurer for any portion of said sum upon the certificate of the Governor, showing that the persons wishing to draw any portion of said fund is entitled thereto.

Sec. 2. That this resolution be in force from its passage.

Approved April 14, 1874.

[No. 16.]

Joint Resolution, authorizing the Adjutant General of this State to make application to the Commanding General of the United States Army for additional troops for the protection of the frontier of Texas.

Section 1. Be it resolved by the Legislature of the State of Texas, that the Adjutant General of this State is hereby authorized and required to make application to General W. T. Sherman, Commanding General of the military forces of the General Government, for an additional regiment of cavalry, to be distributed at proper places on the frontier of this State, to aid in the protection of the citizens on the frontier, in their lives, liberty and property, against the depredations and violence of a barbarous foe.

Sec. 2. That the Governor is hereby required to transmit a copy of this resolution to the President of the United States; also, a copy to our members in Congress from this State; and that the Adjutant General of this State transmit

a copy to the General commanding the United States forces in this State.

Approved April 14, 1874.

[No. 17.]

Joint Resolution, authorizing the Board on Public Printing to receive certain Printing as therein specified.

Whereas, The Journals of both Houses of the Fourteenth Legislature have been published in book form up to the twenty-fourth day of March, 1874, and

Whereas, this work has been done in Bourgeois type, the pages forty ems wide by sixty-nine ems long, Bourgeois measurement; and

Whereas, by said form of printing we are fully satisfied that the State will be saved in actual expenditure for the printing of the Journals, and that it is both convenient and neat; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the Board on Public Printing be, and they are hereby authorized to receive the Journals of the Fourteenth Legislature, published in the above named form, and to pay for them according to Bourgeois measurement cast up to Small Pica measurement.

Sec. 2. That this resolution take effect and be in force from and after its passage.

Approved April 23, 1874.

[No. 18.]

Joint Resolution, granting Leave of Absence from the State to the Hon. D. D. Claiborne, Judge of the Seventeenth Judicial District.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Hon. D. D. Claiborne, Judge of the Seventeenth Judicial District of the State, be and is hereby granted leave of absence from the State, for the period of six weeks, beginning on the third Monday in December, A. D., 1874.

Approved April 29, 1874.

[No. 19.]

Joint Resolution relative to the Cession of a certain portion of Territory from the State of Arkansas to the State of Texas.

Whereas, There is a small area of territory belonging to the State of Arkansas, (known as Lafayette county), on the west side of Red River; and

Whereas, It is desirable to make Red River the dividing line between the two States; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the Governor of the State is hereby authorized and required to open up a correspondence with the Governor of the State of Arkansas, with a view of bringing the question of the cession of that part of the territory of the State of Arkansas on the west side of Red River to this State, directly before the next Legislature of the State of Arkansas, and report the result of such correspondence to the next session of this Legislature, and that a copy of this resolution be transmitted by the Governor to the Governor of the State of Arkansas.

Approved April 29, 1874.

[No. 20.]

Joint Resolution instructing our Senators and requesting our Representatives in Congress to aid in securing the passage of a law which will insure the early completion of the Texas and Pacific Railway.

Whereas, the early completion of the Texas and Pacific railway is of great interest to the people of Texas, and of national importance, as affording the shortest and most practicable route to the Pacific ocean, and the most effective protection to our long line of exposed settlements; and

Whereas, the magnitude of the enterprise is beyond the means of any private corporation, unless aided by the credit of the general government, which has been so generously granted to other Pacific railways; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That our Senators be instructed, and our Representatives in Congress be requested to use all proper

means, through their votes and otherwise, to secure the passage of an act which, guarding the interests of the government and the rights of the people, shall afford such relief to the Texas and Pacific railway as will insure its early completion.

Sec. 2. Be it further resolved, That the Secretary of State be required to furnish a copy of these resolutions to each of our Senators and Representatives in Congress, as soon as practicable after their passage.

Approved May 1, 1874.

[No. 21.]

Joint Resolution granting Leave of Absence from the State to the Hon. E. Dougherty, Judge of the Fifteenth Judicial District.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Hon. E. Dougherty, Judge of the Fifteenth Judicial District of this State, have leave of absence from the State of Texas for six weeks, after he shall have held the summer terms of court in his district.

Sec. 2. That this Resolution take effect from and after its passage.

Approved May 1, 1874.

[No. 22.]

Joint Resolution, relating to those Persons who lost Limbs during the late Civil War, being residents of the State of Texas.

Whereas, It is the sense of the Legislature of the State of Texas that all persons who lost a limb or limbs during their service in the Southern army, during the late civil war, and who were bona fide residents of the State of Texas at the time they entered said army; and,

Whereas, it will be necessary to grant ample time to such persons to collect together proper evidence; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That all persons claiming or desiring to claim

the benefits of this resolution, shall forward to the Adjutant General of the State proof of their claims as follows: First, the affidavit of the party, stating his name, age, when and where enlisted or entered the army, the name and number of his regiment and company, how, where, and when his limb was lost, and state which limb, right or left. Second, the above shall be accompanied by an affidavit made by one or more of the commissioned officers of applicant's company, and one other commissioned officer of his regiment, testifying to the facts set out in the applicant's affidavit, or so many thereof as is possible. In case no commissioned officer can be found by applicant, then the affidavits of three of the members of his company shall be sufficient, or the affidavits of five of his regiment.

Sec. 2. The Adjutant General shall keep a list of all such persons, as return the evidence required by this resolution, and shall make a report of the same to the next session of this Legislature, on or before the tenth day of its session, and in such report shall state what persons have complied with this resolution, and what claims he thinks meritorious, and what not, and his reason therefor.

Approved May 2, 1874.

[No. 23.]

Joint Resolution to have certain Portraits of Washington, Houston, Austin and Burleson repaired.

Whereas, the portraits of Washington, Houston, Austin and Burleson, hanging on the walls of the Senate chamber and Representatives hall, are very much out of repair, and are hung so close to the wall that they are being ruined by dampness; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That a joint committee of two from each House be appointed to take the necessary steps to have said portraits repaired, retouched, and replaced upon the wall, to the end that the same may be preserved to the State.

Sec. 2. That the sum of seven hundred and fifty dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any money in the treasury, not otherwise appropriated, to carry this resolution into effect.

Sec. 3. That this resolution take effect and be in force from and after its passage.

Approved May 4, 1874.

DEPARTMENT OF STATE, }
Austin, Texas, July 6, 1874. }

I, A. W. DeBerry, Secretary of State of the State of Texas, do hereby certify that I have compared the foregoing laws and joint resolutions of the Fourteenth Legislature with the originals now on file in the Department of State, and that they are true copies of such originals. I further certify that the Fourteenth Legislature of the State of Texas assembled at the city of Austin on Tuesday, the thirteenth day of January, A. D. 1874, and adjourned on the fourth day of May, A. D. 1874.

In testimony whereof I hereunto signed my name, and have caused the seal of the Department of State to be affixed, at the City of Austin, this the day and date above written.

A. W. DEBERRY,
Secretary of State.

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SPECIAL LAWS

OF

THE STATE OF TEXAS

PASSED AT THE

SESSION OF THE FOURTEENTH LEGISLATURE

BEGUN AND HELD

AT THE CITY OF AUSTIN

JANUARY 13, 1874

HOUSTON
1874

SPECIAL LAWS OF TEXAS.

CHAPTER I.

An Act to re-enact an Act entitled "An Act to authorize the Police Court of Leon County to Levy and Collect a Special Tax to Build a Jail, and to validate the action of said Court under said Law," and to cause the same to be published as one of the Laws of the Thirteenth Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That, whereas House bill No. 182, originating in the House of Representatives, entitled "An Act to authorize the Police court of Leon county to levy and collect a special tax to build a jail, and which said bill, under all of the forms of law, passed the Thirteenth Legislature of the State of Texas, and was on the second day of June, A. D. 1873, at 10:25 o'clock a. m., presented to his Excellency the Governor of the State for his approval, and the said Governor having failed to approve the same, or return the same to the House of Representatives, where it originated, with his objections to the same, said act did, under the constitution, become a law, which said act is in words and figures as follows: "An Act to authorize the police court of Leon county to levy and collect a special tax to build a jail:"

Section 1. Be it enacted by the Legislature of the State of Texas, That the Police Court of the county of Leon is hereby authorized to levy a special tax of not more than one-third of one per cent. ad valorem on each one hundred dollars worth of the value of the taxable property in said county, also a tax of not more than fifty cents on each poll in said county; also a tax of not more than one-tenth of the tax levied and collected by the State for occupation or license upon any trade or profession taxed by the State in said county; and said court is authorized to levy

said special tax for the years A. D. 1873, A. D. 1874, and A. D. 1875, or any or either of said years as they may deem necessary; and that the taxes herein provided shall be assessed and collected as any other State or county taxes under the general tax laws of this State.

Sec. 2. That the money arising from taxes under the first section of this act shall only be expended and appropriated by said police court for the purpose of purchasing a lot of land on which to erect a jail-house for said county, and for the erection of a suitable house for said jail, and in connection with said jail room or rooms for a jailor, and for the proper furnishing of said jail and jailor's rooms, and to properly enclose said jail lot, and such other matters as may be deemed necessary by said court in connection with said jail.

Sec. 3. That after the payment by said court of all demands and expenses arising under the second section of this act, if any balance of said funds is left in the county treasury, the court may appropriate such balance to repairs for the courthouse of the county, or for enclosing with a proper fence the courthouse yard.

Sec. 4. The taxes imposed under the first section of this act shall only be payable and collectable in money, and shall be payable into the county treasury in money, and shall only be paid out by the county treasurer on draft of the court, specially stating that it is in liquidation of debt on jail fund.

Sec. 5. That no county officer shall have any interest, either directly or indirectly in any contract for building of said county jail or furnishing materials for same.

Sec. 6. That this act take effect from and after its passage.

Therefore, To remove any doubt as to the validity of said act, or as to the action of the county or police court of said county under it, and to require the publication of said act among the special laws of the Thirteenth Legislature of the State of Texas, said afore recited law is hereby re-enacted and validated, and the action of the county court of Leon county, under the provisions of the same, is hereby validated and legalized; and that said act be published by the Governor as one of the laws of the Thirteenth Legislature, and that this act take effect and be in force from and after its passage.

Approved January 23, 1874.

CHAPTER II.

An Act to amend "An Act to incorporate the City of Brownsville, approved February 7, A. D. 1853."

Section 1. Be it enacted by the Legislature of the State of Texas, That the ninth section of an act to incorporate the city of Brownsville, approved February 7, A. D. 1853, be amended so as to read as follows: "Section 9. That an election for mayor and nine aldermen shall be held in the different wards of said city on the first Tuesday of October, A. D. 1874, and annually thereafter. The mayor shall give twenty days notice of said elections, and in case of vacancy in the office of mayor, or of his neglect or refusal to order said election, the same may be ordered by a majority of the aldermen. In case of vacancy by death, resignation or otherwise, the vacancy or vacancies shall be filled by election, ten days notice of which shall be given; and in case of vacancy in the office of mayor, the aldermen shall elect one of their own body to act as mayor until the next annual election. The city council shall have power to pass any ordinance regulating the registration of voters and holding elections, which shall not contravene the provisions of this charter or any general law of this State. The election of officers under this act shall be held in the different wards of said city. Judges of election shall be appointed by the board of aldermen. They shall take an oath to faithfully and impartially discharge their duties; they shall open the polls at nine o'clock a. m., and close them at sunset, when they shall forthwith proceed to ascertain and certify the result of the election, the returns of which shall be made to the city council within three days thereafter; the city council, upon receipt of said returns, shall open and examine the same, and give certificates of election to those found duly elected. The parties receiving said certificates of election shall qualify and be installed in office on the first Tuesday after election.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved January 23, 1874.

CHAPTER III.

An Act to consolidate in one Act and amend the several Acts incorporating the City of Houston, in Harris County.

Section 1. Be it enacted by the Legislature of the State of Texas, That all the inhabitants of the city of Houston shall be a body corporate by the name of the mayor, aldermen and inhabitants of the city of Houston, and by that name they shall be known in law, and shall be capable of suing and being sued, and defending in all courts and in all actions and matters whatever; may have a common seal, and may alter and change the same at pleasure; may hold and convey any estate, real and personal, for the use of said corporation; provided, that such real estate be within the corporate limits of said city.

Sec. 2. That the bounds and limits of said corporation shall be three miles square, to be run with the cardinal points of the compass, of which the center of the court-house square, in the city of Houston, shall be the center.

Sec. 3. That the city council may divide the city into a convenient number of wards, not exceeding eight, and define and establish the boundaries thereof.

Sec. 4. That the administration of the business affairs of said corporation shall be conducted by a mayor and board of aldermen who shall compose the city council.

Sec. 5. That no person shall be a qualified voter at any election for officers of said corporation unless he possesses the qualifications of an elector under the laws of the State, and has resided within the corporate limits of the city sixty days next preceding the election, and is at the time of the election a registered voter therein.

Sec. 6. That the mayor shall be elected by the qualified voters of the city and shall hold his office for the term of two years, and until his successor is elected and qualified. He shall be a conservator of the peace throughout the city. He shall have power, by and with the consent of the city council, to appoint any number of policemen on any special occasion, that he may deem necessary to preserve the peace of the city, and to discharge the same at pleasure; he shall have power in case of necessity to call out the militia, or any military company in the city, to aid in the suppression of any riot or public disturbance; he

shall be active and vigilant in enforcing all laws and ordinances for the government of the city, and he shall cause all the subordinate officers to be dealt with promptly for any neglect or violation of duty. He shall preside at all meetings of the city council when present, and in case of a tie vote in the board of aldermen he shall give the casting vote. He shall have the power to veto any resolution, by-law or ordinance passed by the council, and when vetoed the same shall be inoperative, unless it shall be reconsidered at a subsequent meeting, and passed by the votes of two-thirds of the aldermen present, taken by "yeas and nays" and entered upon the journals of the council. He shall have power to hold the recorder's court in case of the temporary absence or illness of the recorder, and it shall be his duty to do so. He shall have power to administer oaths and affirmations. He shall have and exercise such powers and authority as may be conferred by the city council not inconsistent with the general purposes and provisions of this charter.

Sec. 7. That each ward in the city shall be represented in the city council by two aldermen elected by the qualified voters of each ward, who shall vote only in their respective wards. They shall be residents of the ward represented by them, and shall be qualified electors of the city at the first election for officers of the city to be held under this charter; two aldermen shall be elected from each ward, one of whom shall hold the office for the term of one year, and one for the term of two years; and immediately after the organization of the board of aldermen so elected, the aldermen from each ward shall determine by lots which shall hold the term of two years, and annually thereafter one alderman shall be elected from each ward, who shall hold the office for the term of two years, and until his successor shall be elected and qualified.

Sec. 8. That regular meetings of the city council shall be held in the council chamber, at least once in each month, at such times as may be fixed by resolution of the board, and the mayor, of his own motion, may call special meetings for the transaction of special business, by written notice served personally upon each member of the board, or left at his usual place of abode; any three members of the board may in like manner call special meetings of the council; but no special meetings shall be called except in cases of urgent necessity, and the written notices served

upon the members of the board shall state the object and purpose for which the council is convened; and no other business shall be transacted at such special meetings except that for which the meeting is called. General business shall only be transacted at the regular meetings. The city council may adjourn from day to day until the business properly coming before it is disposed of.

Sec. 9. That a majority of the whole number of aldermen elected and qualified shall be required to constitute a quorum for the transaction of business; but any four aldermen may convene and compel the attendance of absent members on any day of regular meetings.

Sec. 10. That the city council shall adopt rules and regulations for the government of the council in its proceedings, and the order for the transaction of business before it. It shall be the judge of the qualifications and election of the members of the council, including the mayor. It may punish members or other persons during the sittings of the council for disorderly conduct, to the extent that it may fine and imprison by its by-laws and ordinances; and with the affirmative vote of two-thirds of the whole number of aldermen elected and qualified, the council may remove any officer of the city, from his office, for any conduct or offense which, in the opinion of the council, expressed by the two-thirds vote as aforesaid, shall render him unfit to hold his office; but no officer shall be removed until he shall have had the opportunity of being heard by himself, or counsel, or both.

Sec. 11. That the meeting of the council shall be held with open doors, except when by a vote of two-thirds of the members present it may be deemed expedient upon a special question to deliberate with closed doors.

Sec. 12. That whenever it shall be necessary so to do, the board of aldermen shall by ballot elect a member of their own body to act for a designated period as mayor pro tem., who, for the time, shall have and exercise all the powers and authority of the mayor.

Sec. 13. That in case of a vacancy occurring in any office elective by the qualified voters of the city, the city council shall order an election to fill the vacancy upon giving ten days notice thereof, which election shall be held and conducted in the same manner, and under the same rules and regulations prescribed for the holding of general elections in the city.

Sec. 14. That there shall be elected by the board of aldermen as soon after its organization as practicable, a city recorder, the secretary and treasurer, the city marshal, the assessor and collector, the city attorney, the street commissioner, and the city sexton, who shall hold office for the term of one year, and until their successors are elected and qualified; and the election of said officers named in this section may be remitted to the voters of the city at any general election after the first year.

Sec. 15. That the city recorder shall have jurisdiction within the limits of the corporation, with power to hear and determine all cases of violation of the ordinances of the city council, which shall be prosecuted in the name and in behalf of "the mayor, aldermen and inhabitants of the city of Houston," and for the proper exercise of such jurisdiction, the recorder shall have power and authority to issue process; to preserve order and punish for contempts committed in the presence of his court; to administer oaths and affirmations; to summon witnesses, either in the city or from any part of Harris county, and compel their attendance, but process to be executed beyond the city limits shall be directed to and executed by the sheriff or some constable for the county; to summon jurors and compel their attendance; the recorder's court shall be opened daily and the accused shall have a speedy trial, the law of the State regulating the practice and procedure in the courts of justices of the peace, shall be the rule for the practice and procedure in the recorder's court. In the absence, sickness or inability of the recorder to act and hold his court, the recorder's court may be held by the acting mayor at the time; and in such case the acting mayor shall have the same jurisdiction, powers and authority as the recorder. The recorder in addition to his salary, and his ministerial officers executing his process, shall have the same fees as justices of the peace have for similar services. He shall make report to the council from time to time as required, and shall do and perform such duties properly appertaining to the office of recorder as may be prescribed by the city council.

Sec. 16. That the secretary and treasurer shall attend the city council at its meetings; he shall have the custody of all the laws and ordinances of the city; he shall have the custody of the common seal of the corporation, and shall only affix the same to the obligations of the city by

order of the city council; he shall keep a regular and correct journal of the proceedings of the council in well bound record books; he shall be the treasurer and have the custody of all moneys and valuable papers, records and archives of the city; he shall receive all moneys and revenues coming into the city treasury and pay the same out by order of the council; he shall keep the money and funds of the city on deposit in some bank in the city of Houston; he shall keep the accounts of the city in well bound books, and the books and records of his office shall be open to the inspection of any citizen upon request, at any reasonable and proper time. He shall prepare and publish in one or more newspapers printed in the city of Houston an accurate and detailed statement and account of the receipts and disbursements of the revenues of the city; the outstanding obligations and liabilities of the city, and the condition of the city treasury, which statement shall be prepared and made up the first Monday of December of each year, and published on or before the fifteenth day of December; and it shall be the duty of the city council to require this statement so to be made and published; and should the said statement not be made in the manner and at the time provided, the secretary and treasurer shall be liable to a fine of one thousand dollars, to be recovered in the district court of Harris county at the suit of the city attorney, for and in behalf of "the mayor, aldermen and inhabitants of the city of Houston," and the securities of the city secretary and treasurer, on his official bond, shall be liable for the amount of such fine; and judgment nisi shall be entered against them at the same time with the principal, to be made final upon a return of a writ of scire facias; and the city council may prescribe such other duties to be performed by the secretary and treasurer, concerning the administration of his office, as may be deemed advisable.

Sec. 17. That the city marshal shall be the chief police officer of the city under the mayor; he shall attend all regular and special meetings of the council; he shall attend upon the recorder's court, and shall promptly execute and return all process issued from said court; he shall be active in quelling riots, disorders and disturbances of the peace within the limits of said city, and shall take in custody all persons so offending against the peace of the community; he shall arrest all offenders against the ordi-

nances of the city for offenses committed in his presence, and shall have authority to take bail for their appearance before the recorder, and in default of giving which he shall commit them to the city prison for safe keeping until they can be brought before the recorder for trial; he shall have authority to appoint one deputy, for whose acts and conduct he shall be responsible, and such deputy shall have all the power and authority of the marshal; he shall perform such other duties and shall be invested with such other powers, rights and authority as the city council may by ordinance confer, not inconsistent with the Constitution and laws of the State.

Sec. 18. That the assessor and collector shall assess and collect the licenses and taxes levied and imposed by the city council, and shall pay the same over to the secretary and treasurer weekly on the Saturday of each week, taking duplicate receipts therefor, one of which he shall retain, and the other he shall return to the council or the proper committee appointed by the council to receive the same, with his report in detail showing the several amounts received and by whom paid, which report shall be made to the first meeting of the council in each month; he shall be governed by the rules and regulations hereinafter prescribed in relation to the assessment and collection of the licenses and taxes imposed by the city council, and shall do and perform such other acts and duties concerning the administration of his office as may be prescribed by the city council.

Sec. 19. That the city attorney shall in person or by deputy appear and prosecute all cases in the recorder's court arising under the ordinances of the city; he shall, upon the request of the mayor or board of aldermen, attend the meetings of the council, to give his advice and counsel, and shall give his opinion verbally or in writing, as requested, upon all legal questions affecting the rights and interests of the city which may arise under the city government; he shall, when requested, draw up or revise any ordinance of the city; he shall represent the city in the prosecution or defense of any and all actions or suits in any and all courts wherein its rights or interests are involved; he shall draw up all contracts for the city, and prepare all official bonds.

Sec. 20. That the duties of the street commissioner and city sexton, and such other officers not specially named in

this charter as the city council may from time to time see proper to appoint for the better administration of the affairs of the city, shall be prescribed by ordinances passed by the city council.

Sec. 21. That bonds shall be required of the city assessor and collector, and of the city secretary and treasurer, in an amount not less than double the amount of the funds which may probably be in their hands at any one time, to be determined by the council, which bonds shall be upon such conditions as may be determined by the city council, and with good securities, to be approved by the city council; and the city shall in like manner require bonds of any officer or agent of the city through whose hands the moneys of the city may pass.

Sec. 22. That the by-laws and ordinances of the city shall be enforced by fine not exceeding one hundred dollars, or by imprisonment not exceeding thirty days; and the council may provide by ordinances that fines may be commuted by labor in a workhouse, or in the public works, and an execution may issue against the goods and chattels, lands and tenements of the offender.

Sec. 23. That the salaries and fees of officers of said city shall be at the following rates, for each and every year, commencing from the date of their qualification, viz: The mayor shall receive three thousand dollars; each alderman shall receive five dollars for every meeting of the city council attended by him; the recorder shall receive two thousand dollars; the secretary and treasurer shall receive twenty-five hundred dollars; the city marshal shall receive two thousand dollars and such fees as may be allowed by the city council; the assessor and collector shall receive such commissions as may be allowed by the city council, not to exceed the sum of five thousand dollars; the city attorney shall receive the sum of twenty-five hundred dollars; the street commissioner the sum of fifteen hundred dollars, and warrants shall be drawn monthly by the secretary for the payment of these salaries, but the city council shall have power to establish and fix the salaries and compensation of all officers and agents of the city, for the next succeeding year, commencing on day of general election, provided they shall not exceed the maximum above prescribed for the several officers named.

Sec. 24. That the city council shall have power and authority to maintain the cleanliness of the city, to secure

the safety and convenience of passing in the streets, sidewalks, and other public places in the city; to fix the squaring, and to prevent encroachments and obstructions on the streets and sidewalks, squares, ways, levees, and public roads and places; to determine the dimensions, and provide for grading, completing, maintaining and repairing of streets and pavements at the expense of the owners of the adjacent lands; to fix the place for anchoring of all water crafts on Buffalo bayou; to establish an active system of inspection over the conduct of persons and premises; to prevent cattle, horses, swine, goats, geese, and animals from running at large in the streets; to establish and maintain a city police, prescribe the duties of policemen and regulate their conduct; to provide for lighting the streets, and for this purpose may establish gas-works for the manufacture of gas for the use of the city and the inhabitants thereof at cost price; to determine in what part of the city slaughter-houses, bone-boilers, soap-boilers and other establishments for any business which is or may be injurious to the value of adjacent property, or unwholesome or disagreeable to the occupants of adjacent property, shall not be allowed to be erected; to determine in what part of the city wooden buildings shall not be erected, and within the limits prescribed no person shall be permitted to erect such buildings; to prevent gunpowder or other explosive material, kerosene oil or other inflammable oils being stored within the city limits in such quantities as to endanger the safety of adjacent property; to provide means for the protection and extinguishment of conflagrations, and for the regulation, maintenance and support of a fire department; to permit or [or] forbid theatres, balls and other public amusements, and to suppress the same whenever the preservation of order, tranquility or public safety may require; to close dram-shops, drinking saloons and other places where intoxicating liquors are sold whenever necessary or expedient; to define what shall be deemed nuisances in said city, and to abate them by summary proceedings; to provide a workhouse for vagabonds and disorderly persons who are unable to pay fines, and make regulations concerning the same; to provide and keep a city prison; to make all needful and proper rules and regulations concerning bakers, butchers, keepers of taverns, grog shops and other public houses, draymen, horse drivers, water carriers, omnibus drivers, hack drivers, and

drivers of baggage wagons, and especially to preserve order and prevent noise and confusion in and about the several depots on the arrival and departure of railway trains; to prevent extortion by carriers of passengers and baggage, hacks, drays, and all public conveyances by establishing maximum rates of charges; to direct and control the laying and construction of railroad tracks, turn-outs and switches, and to require that they be constructed and laid so as to interfere as little as possible with the ordinary travel and use of the streets; to require railroad companies to keep the streets through which they run in repair, and to light the same whenever deemed necessary; to construct and keep in repair bridges and crossings at the intersection of streets and avenues, and over all ditches, sewers and culverts on the line of the railway; to regulate the speed of engines and locomotives within said city; to control and regulate everything concerning street railways, and generally to make and establish all rules, regulations, by-laws, and ordinances, which may contribute to and promote the better administration of the affairs of said city, as well as for the maintenance of the peace, tranquillity and safety of said city and for the protection of persons and property of its inhabitants. The city council of the city of Houston are hereby empowered and authorized to take and condemn land and real estate in said city to the public use, viz: for streets, alleys and public ways; for extending, straightening and widening those streets now in use; for public wharves and landing places for steamers and other water crafts, and for public squares, parks and pleasure grounds. For the condemnation of any land or real estate the following proceedings shall be had: The city attorney or attorneys employed by said city for that purpose, shall file a petition in the district court of Harris county against the owner of the land or real estate sought to be condemned for any of the purposes aforesaid, setting forth:

First. The name or names and residence of the owner or owners, if known, and if unknown the same shall be so stated.

Second. The description by metes and bounds of an actual survey had for that purpose of the land or real estate sought to be condemned.

Third. The purpose for which the same is proposed to be taken and applied.

Fourth. The supposed value of the property sought to be condemned.

Fifth. The prayer that the same be condemned to the public use, for the purpose as stated. And upon the filing of such petition, like proceedings shall be had thereon as in other civil suits, and when personal service cannot be had by reason of the defendant being a non-resident or unknown, service by publication shall be made as provided in other cases in the district court, and upon trial the court shall proceed to render judgment condemning the land to public use upon the payment of the value thereof as assessed by the jury, and upon any suit being brought thereafter against the said corporation for such property so condemned, a copy of the judgment and an actual tender of the money in court shall be a sufficient answer in bar of a recovery in any such suit. All costs of proceeding for the condemnation of land and real estate under this act shall be taxed against the plaintiff, including reasonable fees of the attorney which the court shall appoint to represent the defendant when cited by publication.

Sec. 25. That the city council shall have power and authority to establish one or more markets and market places, and within reasonable hours, not later than ten o'clock daily, to prevent the sale of fresh meats, game, fresh fish, poultry, butter, eggs, vegetables, and such country produce as is usually sold in markets, at any place in said city other than in said markets so established; to rent and lease stalls and stands in said markets and market places, and collect market licenses and privileges, but no intoxicating liquors shall ever be sold in said markets or market places. To provide for the inspection of all things sold in said markets, and also for the inspection of the weights and measures used therein. To establish public scales, and require all corn, grain, hay, oats, fodder and the like, brought to market in wagons and carts, and sold by the hundred weight, to be weighed thereon, and to charge a reasonable compensation therefor.

Sec. 26. That the market and market privileges of said city may be let and farmed out annually to the highest bidder, at public outcry at the market house, after ten days' notice of the time, place and terms shall have been published in two of the city papers, and two copies posted in conspicuous places in said market house. The city council shall, before the day of letting, fix upon the mini-

sum at which the market and market privileges may be leased for the ensuing year, and publish the same in the public notices required to be given as herein prescribed, and all bids below the amount named shall be rejected; at least five days before the day advertised for the letting, the mayor shall cause to be prepared the contract required to be signed by the lessee, and the same shall not in any manner be changed or modified within the five days previous to the letting; and said contract so prepared shall be open at the mayor's office to the inspection of all parties who may desire to see it. A good bond and securities, to be approved by the city council, shall be required of the lessee, and new and additional securities may be required at any time, under penalty of forfeiture of contract.

Sec. 27. That the city council may appropriate to such uses and purposes as may be deemed advisable, such halls and rooms in the upper stories of the new market house in said city as may not be necessary for public use, and to lease and rent the same from time to time for any term not exceeding one year.

Sec. 28. That the city council shall have power to construct wharves on the banks of Buffalo bayou within the limits of the corporation, and make such other improvements as may be necessary for the better navigation of said bayou, and for convenience of landing vessels and their cargoes, and to levy contributions upon all vessels and their cargoes as may land at the said wharves, and to demand and collect the same, to defray the expenses of such improvements and repairs.

Sec. 29. That wherever any steamboat or other craft shall sink in the Buffalo bayou above Harrisburg, and the navigation be obstructed thereby, it shall be the duty of the mayor of the city of Houston to appoint three good and discreet commissioners and inspect and examine the same, and its condition, and immediately to report in writing their opinion, stating whether in their opinion the boat or craft sunk can be or is likely to be raised or removed within the space of ten days after their examination, and should they be of the opinion that such boat or craft is not likely to be raised so as to open the navigation within the space of twenty days from the time of their examination, then and in that case the mayor and aldermen of the city of Houston may order the removal of such boat or craft so sunk, in any manner they shall deem

proper, without incurring any damages or penalty for the same.

Sec. 30. That said corporation of the city of Houston is hereby given full power and authority to take such steps to preserve and improve the navigation of the said Buffalo bayou above the town of Harrisburg as they may think proper, and for that purpose they are authorized to levy and collect a tax on all steamboats and other crafts running in said bayou to the city of Houston, for the purpose of improving navigation thereof; provided, that the power in this section shall not be construed to give said corporation any jurisdiction or control over said Buffalo bayou or the banks thereof in any manner beyond or without the corporate limits of said city, except for the purpose of protecting or improving the navigation of said bayou, and shall not give said corporation jurisdiction or control to prevent or interfere with the construction of any railroad or other bridges, by any company or person, across said bayou in such manner as not to interfere with the navigation of said bayou.

Sec. 31. That the city council, by a vote of the majority of the whole number of aldermen taken by "yeas" and "nays" and entered upon their journal, shall have power to assess, license and tax hawkers, peddlers, auctioneers, theatrical and other exhibitions, shows and amusements, billiard tables, nine and ten pin alleys, public drays, wagons, omnibuses and carriages, grog shops, tippling houses and dram shops, beer saloons, (whether for the sale of domestic beers and liquors, or otherwise) and such other trades and occupations not especially mentioned herein, as may be taxed by the laws of the State; but no assessment or license tax levied under this section shall ever exceed three times the amount levied by the State on the same subject of taxation.

Sec. 32. That the city council, by a vote of a majority of the whole number of aldermen taken by "yeas" and "nays," and entered upon their journal, may assess and collect an annual and direct tax upon all property, real and personal, situate and being within the limits of the corporation, not exceeding two per cent. ad valorem all taxes on real estate, shall be a lien and charge upon the property, and it may be subjected to the payment of the same.

Sec. 33. That every person or persons on whom, or on whose vocation a license tax may have been assessed, shall,

before engaging in such vocation, pay to the city assessor and collector the amount of said tax, taking his receipt therefor, which receipt shall entitle him, or her, or them, to a corresponding license to be issued by the mayor. If any person or persons shall engage in any vocation within the limits of the city, on whom or which a license tax had been assessed by the city council, without having first obtained a license therefor from the mayor, such person or persons shall be liable to pay one-fourth of the amount of each annual license tax for each week he, she or they may be so engaged, and in the same proportion for each day which may be recovered by action before the recorder or any justice of the peace, or the district court, according to the amount.

Sec. 34. That it shall be the duty of the assessor and collector, after the assessment of the property liable to taxation has been made, to call upon each tax payer for the amount of the taxes due by him, or them, and upon failure to pay the same, then the assessor and collector shall turn over to the city recorder the assessment rolls. The city recorder, upon receiving such assessment rolls, shall thereupon issue a summons to the party against whom any tax may have been assessed, to appear and show cause, if any said party have, why judgment should not be rendered against said party for the amount assessed against said party for taxes. Should the party not appear at the time and place, as summoned, judgment shall be rendered against said party, as in a civil suit, and execution shall follow such judgment, and the costs shall be adjudged as in civil cases; and no property liable to taxation shall be exempt from sale under such execution; and all laws governing justices' courts shall govern the city recorder in these cases. If the sum for taxes against any individual or corporation be greater in amount than that allowed by the jurisdiction of a justice of the peace, then the city assessor and collector shall file suit against him, her or them in the district court of Harris county, and the assessment books shall be taken as prima facie evidence of the statements made therein and each assessment therein made by him, her or them, or his, her, or their agent shall be accepted as proved upon the trial before any court; provided, this section shall not be construed to prevent the city council from adopting a mode and manner as near the mode and manner prescribed by the laws of the State, as the circumstances

will permit; and further provided, that all taxes due the city may be collected by an action of debt in any court having jurisdiction of the amount.

Sec. 35. That the said corporation shall not be liable to any person for damages or injuries caused from streets, ways, crossings, bridges or sidewalks being out of repair, unless the same were so out of repair from gross negligence of said corporation and remain so for ten days after special notice in writing given to the mayor or street commissioners.

Sec. 36. That it shall not be necessary in any action, suit or proceeding in which the mayor, aldermen and inhabitants of the city of Houston shall be a party, that any bond or security shall be required, but all actions, suits or proceedings shall be conducted as if such bond or security had been given. The property, real and personal, belonging to the city shall not be liable to be sold under any writ of execution, nor shall the funds in the hands of any person belonging to the city be liable to be garnisheed; nor shall the city or any of its officers or agents be required to answer to any writ of garnishment.

Sec. 37. That all cemetery lots which have been or may be hereafter laid out by said city, or in any private cemetery grounds, together with all monuments or railings upon the same, shall with all these appurtenances, forever be exempt from taxes, executions, attachments or forced sale.

Sec. 38. That no person shall be an incompetent judge, justice, witness or juror by reason of his being an inhabitant or freeholder in the city of Houston, in any action or proceeding in which said city may be a party interested, and all officers of said city shall be exempt from jury service while holding their offices.

Sec. 39. That the property of all churches, Masons, or Odd Fellows, or other charitable associations, used by them for their places of meeting, both real and personal, shall be forever exempt from taxation. Bonds of the United States and bonds of the corporation of Houston shall not be subject to tax under this act.

Sec. 40. The city council shall annually appoint by ballot one person from each ward of the city, who, together with the mayor as president thereof, shall constitute a board of health of the city. The city council may appoint a health physician and as many health inspectors as

they may deem necessary, and shall prescribe by ordinance the powers and duties of the board and its members; and the secretary of the city council shall be the clerk of the board of health, and shall keep a record of their proceedings.

Sec. 41. The city council shall have power to take such measures as they may deem effectual to prevent the entrance of any pestilential, contagious or infectious diseases into the city: to stop, detain and examine for that purpose any person coming from any place infected or believed to be infected with such disease; to establish, maintain and regulate pest houses or hospitals within the city, or not exceeding five miles from its bounds; to cause any person who shall be suspected of being infected with any such disease to be sent to such pest house or hospitals; to remove from the city or destroy any furniture, wearing apparel, or property of any kind which shall be suspected of being tainted or infected with pestilence; to prevent persons from infected places coming into the city of Houston, and to adopt any sanitary measures whereby the health of the city may be protected or improved. But said corporation shall not have power or authority to prevent railroad trains and passengers therein from passing through said city, but may regulate the speed of such trains passing through and prevent their stopping.

Sec. 42. That all works of improvement and all public works for said city exceeding the sum of five hundred dollars (\$500) in cost, shall be let out to the lowest bidder by sealed proposals, and no contract shall be made or entered into until after the plans and specifications shall have been prepared and submitted to the council and approved by it, and afterwards published in at least four issues of some daily paper published in the city, inviting bids therefor, and stating the time when such sealed proposals will be opened. No bid shall be considered unless made in accordance with the plans and specifications so published, and no allowance for extra work shall ever be made or paid for. The sealed proposals shall be addressed to the city secretary and treasurer, and shall only be opened in the presence of the city council at a regular meeting, and the bidders shall have the right to be present. Bond and security, to be approved by the city council, shall be required of all contractors. The taking of any contract or any interest therein, openly or secretly, directly or indirectly, by

any officer of the city, shall ipso facto work a forfeiture of the contract and the consideration thereof, and shall vacate the office held by the party taking the same.

Sec. 43. The city council shall have power and authority to borrow money on the credit of the city and issue bonds therefor, to an amount not to exceed one hundred thousand dollars during any one year; to create a debt during any one year exceeding one hundred thousand dollars, the question must be submitted to the registered voters of the city, and if two-thirds of the votes polled shall be in favor of creating such debt, it shall be lawful for the city council to authorize the issuance of the bonds for the amount named in the resolution or ordinance submitting the question to the voters. No bonds shall be issued drawing a greater rate of interest than ten per cent. per annum, but shall not be invalid if sold for less than their par value. All bonds shall express upon their face for what purpose they were issued. When any bonds are authorized to be issued, in the same ordinance, a fund shall be provided to pay the interest, and two per cent. per annum on the principal, as a sinking fund to redeem the bonds; and the two per cent. sinking fund shall be invested in the bonds of the city, or in United States bonds; the appropriation made for the interest and sinking fund shall, under no circumstances, be diverted to any other purpose. City scrip or other certificates of indebtedness or obligations of the city may be made receivable for taxes, but when paid in to the assessor and collector he shall require the party paying it in to cancel it by writing "cancelled" and the date and his name across the face of it; and at the same time the assessor and collector shall execute a receipt showing what amount was paid in money and what in scrip, and his monthly report shall correspond and give the names of the tax-payers.

Sec. 44. That a general election for mayor and aldermen for said city shall be held on the first Tuesday in March, A. D. 1874, and the officers elected on that day shall, on the tenth day after said election, take the oath of office and enter upon the discharge of the duties of the office to which they have been elected, and until said officers shall be elected and qualified under this act, the following persons are hereby appointed the mayor and aldermen and recorder of said city, and shall immediately enter upon the discharge and duties of their offices:

Mayor, James T. D. Wilson; aldermen for first ward, N. P. Turner, Whitfield Harral; for the second ward, Charles Gehring and F. Heitman; for third ward, W. C. Wagley and F. A. Rice; for the fourth ward, Wm. Christian and D. C. Smith; for the fifth ward, I. C. Lord and S. F. Noble; for recorder John H. Duncan. The officers so elected shall hold their offices until the first Monday in January, A. D. eighteen hundred and seventy-five, but the aldermen so elected shall determine by lot, immediately after the organization of the board, which of them shall hold for the long term as provided in section seven of this charter, and the term of such as hold for the long term shall expire on the first Monday in January, A. D. 1876.

Sec. 45. The Recorder of the City of Houston shall be ex-officio the registrar of voters for the city; and the present recorder, viz., John H. Duncan, shall be the first Registrar, and in case of his death or refusal or inability to act, the council shall appoint a proper person so to act. The registrar may appoint some suitable person in each ward to act as deputy registrar for such ward, and the registrar and deputies shall take an oath that they will faithfully and impartially discharge the duties of the office of registrar. The recorder may at his office register all voters in any ward of the city, and after the registration of the voters in the several wards has been completed, he shall transcribe the names of the voters so registered by him to the proper lists of the wards in which the voters reside. Books of registration shall be kept open in each ward for at least five days, of which notice shall be given by publication in one or more of the city papers of the time and place, and they shall be closed three days before the election, and after the books have been closed, no voter shall be registered. The registrar, and his deputies shall have authority to administer oaths to applicants for registration touching their qualifications as voters, and when not satisfied as to the right of the applicant to vote, or as to his identification, the registrar may require him to state under oath in what particular part of the city he resides, and also the names of at least two of his nearest neighbors, which shall be recorded opposite his name for reference; and any person present shall have the right to require the registrar to put the question as to residence and neighborhood to any applicant. The names shall be numbered consecutively in the order of registration in each

ward, and when the registration is completed, the names shall be arranged alphabetically on the lists for each ward, which shall be delivered to the manager of the election in each ward on the day of the election. Should the registrar or any deputy willfully and corruptly refuse to register any person entitled to vote, he shall be fined in the sum of five hundred dollars, upon indictment by the grand jury in the Criminal District Court of Harris county; and any person who shall unlawfully and wilfully vote at any election for officers of said city who is not a qualified voter under the charter, he shall be fined in the sum of five hundred dollars, or imprisoned in the county jail for the term of six months, or both, in the discretion of the jury, and the Criminal District Court of Harris county shall have jurisdiction thereof.

Sec. 46. At the election to take place on the first Tuesday in March, 1874, the presiding justice of the peace of Harris county shall appoint a presiding officer and two judges of election in each ward, one of the judges from each of the political parties; he shall appoint the place in each ward for the holding of the election, and the election shall be conducted as near as may be after the order of the State election law. The returns of election shall be made to the presiding justice of Harris county, who shall, on the fifth day after the election, proceed to count the votes and issue a certificate of election to the candidate receiving the highest number of votes for the respective offices, and the candidates so receiving the certificates shall proceed to qualify and discharge the duties of the office, in accordance with this charter; and if the said presiding justice shall die, be unable, or refuse to act, then the city council herein appointed shall perform the duties assigned to said presiding justice. After said election the city council shall make such further regulations concerning registration and elections as may be necessary, and provide for the appointment of officers to conduct the elections in the future. The registrar of voters shall be entitled, as compensation for his services, to an amount not exceeding ten cents for each registered voter, to be paid by the city.

Sec. 47. That the general election for officers of said city shall be the first Monday in January of each year, commencing on the first Monday in January, A. D., 1875; and no election for officers for said city shall ever be held on the day of election for State and county officers. If it

should so happen that an election for State and county officers should be ordered on the first Monday in January, then and in that case the city election shall be postponed by the order of the mayor for one week.

Sec. 48. That an act entitled "An Act to consolidate in one act and amend the several acts incorporating the city of Houston, in Harris county, passed August 2, 1870, and all former acts relative to the incorporation of the city of Houston," be and the same are hereby repealed; but all property, actions, rights of action, claims and demands, of every nature and kind whatever, vested in said corporation under and by virtue of the said laws hereby repealed, shall vest in and remain and inure to the said corporation under this act as fully and completely in all respects as if the said laws had not been repealed, and all by-laws, resolutions, and ordinances made and passed under or in pursuance of said laws, hereby repealed, shall continue and remain in full force and effect until repealed by the proper authorities of said corporation.

Sec. 49. That this act shall be deemed a public act and judicial notice shall be taken thereof in all courts.

Sec. 50. That the provisions of the joint resolution of the Legislature entitled "a joint resolution, suspending the powers of the mayor and aldermen and other officers of the city of Houston, in Harris county, in certain cases enumerated herein," approved January 20, 1874, shall not apply to the mayor and aldermen and officers named, appointed, or elected under this act.

Sec. 51. That this act shall take effect and be in force from its passage.

Approved January 23, 1874.

CHAPTER IV.

An Act to amend an Act entitled "An Act to Incorporate the City of Galveston, and to grant a new Charter to said city, and to repeal all acts heretofore passed incorporating said city, which may be in force by virtue of any existing charter, approved May 16, 1871."

Section 1. Be it enacted by the Legislature of the State of Texas, That section two, of article three, of title two of said act, be amended so as to read as follows: "Sec-

tion 2. At the first meeting of said board of aldermen so elected, it shall proceed to divide as hereinafter provided, the three members from each ward into three classes; and those of the first class shall hold their office for one year; those of the second class for two years, and those of the third class for three years, and until their respective successors are duly elected and qualified, so that thereafter there shall be elected at each annual election four aldermen, who shall hold their offices for three years, and until their successors are elected and qualified. And at each annual election after the first, the aldermen shall be elected by general ticket for the city, and every qualified voter shall be allowed to cast but one ballot each for the four candidates; the person having the highest number of votes in the whole city for mayor, shall be declared to be elected, and the persons receiving the highest number of votes cast for aldermen, shall be declared duly elected. In case the person elected mayor shall refuse to accept the office, the city council, mayor, or acting mayor, shall order another election; and in case of vacancy in the office of mayor by death, resignation, removal or otherwise, it shall be filled for the remainder of the term by a new election, to be ordered by the acting mayor or city council; and in case of a vacancy in the board of aldermen, by a refusal to accept or to qualify, or by death, resignation, removal or otherwise, the mayor or acting mayor or city council shall order a new election to fill the residue of the unexpired term; and all special elections shall be conducted in the same manner as is herein provided for the annual election; provided, that in special elections, five days notice thereof shall be deemed sufficient. When more than one alderman is to be elected at any election, the candidate receiving the highest number of votes shall be declared elected for the longest term. The candidate receiving the next highest number of votes shall be declared elected for the next longest term, and the candidate receiving the next highest number of votes shall be declared elected for the shortest term. In case of a tie they shall draw for classes.

Sec. 2. That this act shall take effect and be in force from and after its passage.

Approved January 24, 1874.

CHAPTER V.

An Act authorizing the County Court of Cameron county to issue Bonds for the purpose of funding the County Indebtedness, and to provide for the payment of the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That the county court of Cameron county be, and is hereby authorized to issue bonds of said county, in denominations of fifty dollars and one hundred dollars, to an amount sufficient to cover the outstanding indebtedness of the county, which shall have accrued prior to the first day of January, A. D., 1874; said bonds to bear eight per cent. interest per annum, payable annually on the first day of January of each and every year, and shall run twenty years, payable at any time after two years; provided, that before such payment, the county court, through its presiding officer, shall advertise for proposals, and the bonds of the lowest bidder shall be paid; provided further, that none of such bonds shall be redeemed at a value above par.

Sec. 2. The county court of said county shall, as soon as possible after the passage of this act, ascertain and audit the amount of outstanding indebtedness of the county, as shall have accrued before the first day of January, A. D. 1874, and shall thereafter issue the bonds of said county to a sufficient amount to cover such indebtedness; and said county court is hereby authorized and required to levy and have collected a special ad valorem tax on all taxable property of said county, not to exceed one half of one per cent. for the purpose of paying the interest on said bonds, and to provide a sinking fund for the payment of the principal, in the amount and in the manner hereinbefore provided for.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved January 24, 1874.

CHAPTER VI.

An Act incorporating "Waco Lodge No. 70 Independent Order of Odd Fellows."

Section 1. Be it enacted by the Legislature of the State of Texas, That "Waco Lodge No. 70 Independent Order of

Odd Fellows," be and the same is hereby created a corporation under the name and style of Waco Lodge, No. 70, Independent Order of Odd Fellows, with a capacity in said corporate name, to make contracts; to have a succession and a common seal; to sue and be sued; to plead and be impleaded; to make by-laws for the government and regulation of the same; and by said corporate name shall be capable of acquiring, holding, selling and conveying property, real, personal and mixed, and to do and perform any and all such acts as may be necessary or proper for, or incident to the fulfillment of its rights under the laws and in accordance with the constitution of the State of Texas, and the United States.

Sec. 2. That the object for which this corporation is created, is for charitable and benevolent purposes.

Sec. 3. That the place of business of this corporation shall be at Waco, McLennan county, Texas.

Sec. 4. That this corporation have perpetual succession.

Sec. 5. That this corporation shall have three trustees, a majority of whom shall constitute a quorum and be competent to fill vacancies in the board, and to transact all business of the corporation; said trustees shall be elected annually, and at such time and place as the by-laws of the corporation may require, and said trustees shall choose one of their number president, and shall appoint a secretary and treasurer, and such other officers as they may deem necessary for the corporation. The trustees may adopt by-laws for the government of the corporation; but such by-laws may be altered, changed or amended by a majority vote of the members of the corporation at any election or special meeting, ordered for that purpose by the trustees, on a written application of a majority of the members, and until the first general election of trustees as herein provided for. M. D. Herring, S. A. Killough and S. W. Mabry are hereby created and appointed trustees, with all powers, duties and rights imposed on trustees by the laws of this State and this charter, to hold and exercise the functions of said appointment until the first general election of trustees as herein provided for.

Sec. 6. That the corporation may convey lands by deed, sealed with the common seal of the corporation and signed by the president, or the presiding member or trustee of said corporation. Any such deed, when acknowledged by such officer to be the act of the corporation, or proved in the

manner prescribed for other conveyances of land, may be recorded in like manner and with the same effect as other deeds. This corporation shall have power to borrow money on the credit of the corporation, and may execute bonds or promissory notes therefor; and may pledge the property and income of the corporation.

Sec. 7. That this charter be in force and take effect from and after the date of its passage.

Approved January 26, 1874.

CHAPTER VII.

An Act supplemental to an Act entitled "An Act to incorporate the City of Brenham, and to grant a new Charter to said City," approved February 4, 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be the duty of the city council, at least forty days before any general election to be held for city officers, to appoint a registrar, whose duty it shall be to register the qualified voters of the city of Brenham, and who shall before entering upon the discharge of his duties, take the constitutional oath as provided for other officers.

Sec. 2. That at least thirty-five days before any general annual election hereinafter to occur, the registrar shall give at least five days notice of the times and places he will attend in person in each ward, for the purpose of registering the voters of such ward; said notice shall be given by publication in a newspaper, if one be published in the city, and by posted notices in at least three public places in each ward. The books for registration shall be kept open at least three days in each ward; and after the registration in the wards shall have closed, the registrar shall register at the city hall, all persons entitled to vote, up to within three days of the election.

Sec. 3. It shall be the duty of the registrar to enter upon the registration list of each ward of the city the name of any person, resident in such ward, and entitled to vote therein; and for wilfully or corruptly refusing to register any person lawfully entitled to register, he shall be deemed guilty of a misdemeanor, and upon conviction thereof be-

fore any court of competent jurisdiction, be fined not less than one hundred (\$100) dollars, nor more than five hundred (\$500) dollars.

Sec. 4. It shall be the duty of the city council to furnish the registrar with suitable books in which to register the voters of each ward separately; and the registrar shall three days before the election turn over to the city council said books with the names of the voters therein as registered.

Sec. 5. The registrar shall be entitled to a fee of ten cents for each name registered or rejected by him, to be paid by the city, for which the city council shall make the necessary appropriation.

Sec. 6. That it shall be the duty of the board of aldermen to revise the lists of registered voters and to erase from said lists the name of any person that may appear from competent testimony to have been improperly registered or dead, or otherwise disqualified since his registration; and to add to said list the name of any person who may be entitled to vote, and shall furnish a satisfactory excuse for not registering before the registrar. For the purpose of revising the list of voters, the board shall sit at least two hours on each of the three days preceding the election, and on the last day when the duties of revision are over, they shall certify to the correctness of the list as delivered to them by the registrar, naming the exceptions or any changes that may have been made by them, and stating the last number of the list.

Sec. 7. It shall be the duty of the city clerk to furnish a certified copy of the list of voters in each ward to the judges of election of each ward on the morning of the election before the opening of the polls; and in no case shall the original list of registered voters be used.

Sec. 8. No person shall be entitled to vote unless his name appears upon the list of registered voters; and when a person has voted, the presiding officer having charge of the list, shall mark opposite the name of the person voting the letter "V," and in no case shall the same list be used at any two elections.

Sec. 9. That all registrations heretofore made of the voters of the city of Brenham, the same are hereby declared null and void and of no effect.

Sec. 10. That this act shall take effect and be in force from and after its passage.

Approved January 26, 1874.

CHAPTER VIII.

An Act to amend "An Act to incorporate the City of Jefferson, in Marion County, and to repeal all laws heretofore passed incorporating said city, or amendatory thereof," approved April 15, 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That section three of said act shall hereafter read as follows: "Section 3. The municipal affairs of said city shall be administered by a mayor and eight aldermen, who shall compose the city council; a clerk of the city, treasurer, chief of police, city attorney, recorder and policemen, the number thereof to be fixed by the city council, as well as their duties, salaries and fees; provided, the mayor shall be ex-officio recorder, and the clerk of the city shall be collector of taxes, and the treasurer shall be the assessor of taxes, and the chief of police shall be ex-officio street commissioner; and the clerk and treasurer shall be required to give bond for the faithful performance of the duties of their said offices, payable to the mayor of the city of Jefferson, in such sum as shall be provided by the mayor and aldermen and to be approved by them."

Sec. 2. That section four of said act shall hereafter read as follows: "Sec. 4. That the officers above named shall receive the following annual salaries, to be paid monthly in United States currency; mayor, eighteen hundred dollars; aldermen, two dollars for each meeting; city attorney, twelve hundred dollars; clerk of the city, twelve hundred dollars; treasurer, one thousand dollars; chief of police, twelve hundred dollars, and such fees as may be allowed him by law, or by the city council; provided, however, that the provisions of this act shall not be operative until after the next election of officers for said city."

Sec. 3. That the mayor, when acting as recorder, shall have all power conferred upon the recorder by section twenty of the act of which this is an amendment; and shall, when so acting, sign all official papers as mayor and ex-officio recorder of the city of Jefferson; and shall also have the right, when any person has been convicted of any offense and fined, and shall refuse to pay the fine, or shall be unable to pay the same, to require such person to work upon the streets or other public works under the supervision of the chief of police, at the rates of

one dollar per day until said fine and all costs shall be discharged.

Sec. 4. That the mayor and board of aldermen shall appoint, twenty days before an election for mayor and aldermen, a city registrar, who shall register all the persons who are entitled to vote at said election, and who shall be governed by the same laws that the registrar for the county is, and shall be entitled to the same fees, to be paid by the city, and who shall furnish a list of all persons entitled to vote to the officers who hold the election at every place of voting.

Sec. 5. That all laws and parts of laws in conflict with this act be repealed, and that this act take effect and be in force from and after its passage.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the twenty-seventh day of January, 1874, at eleven o'clock and eleven minutes A. M., and was not signed by him or returned to the house in which it originated, with his objections thereto, within the time prescribed by the constitution, and thereupon became a law without his signature.—A. W. DeBerry, Secretary of State.]

CHAPTER IX.

An Act authorizing the County Court of Tyler County to levy a Special Tax for certain purposes.

Section 1. Be it enacted by the Legislature of the State of Texas, That the county court of Tyler county shall have power, at a regular session thereof, to levy a special tax upon all property subject to taxation in said county, for the purpose of repairing the courthouse and jail thereof, and also to pay the outstanding indebtedness of said county; provided, that the tax herein authorized to be levied shall not exceed in any one year one-half the amount of the tax levied by the State on such property so subject to taxation.

Sec. 2. That said special tax shall be apportioned and collected in the manner provided by law for the collection of the State tax; and when collected, said tax shall be paid

into the county treasury, and the collector of said tax shall have power to enforce the collection thereof in the same manner as is provided by law for the enforcement of the collection of the State tax.

Sec. 3. That this act take effect and be in force from and after its passage.

Passed January 29, 1874.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the thirty-first day of January, 1874, at three o'clock and thirty minutes P. M., and was not signed by him or returned to the house in which it originated, with his objections thereto, within the time prescribed by the constitution, and thereupon became a law without his signature.—A. W. DeBerry, Secretary of State.]

CHAPTER X.

An Act to amend Sections one, two, and three, of an Act entitled "An Act to amend an Act to authorize the transcript of the Records of Bowie County," approved April 3, 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That sections one, two, and three, of an act entitled "An Act to amend an act to authorize the transcript of the records of Bowie county," be amended so as to read as follows:

"Sec. 1. That the county or police court of Bowie county be, and it is hereby authorized to cause to be transcribed into well bound books from the original records, now properly belonging to the office of the clerk of the district court of said county, such portions of said records as in the opinion of the court may be needful and necessary, and affix to the same a suitable index."

"Sec. 2. That the compensation allowed for making such transcript shall not exceed fifteen cents for each one hundred words, and shall be paid for out of the general county fund, upon the order of the police or county court."

"Sec. 3. That the clerk of the district court shall append to each book his certificate, under seal, showing that the same contains true copies of the original records;

and such books, so certified to, shall have the same force and effect as the original records."

Sec. 2. That this act take effect and be in force from and after its passage.

Approved February 11, 1874.

CHAPTER XI.

An Act repealing an Act entitled "An Act to Prohibit the Sale or giving away of Spirituous, Vinous, Malt, and other Intoxicating Liquors, within two miles of certain places therein named," passed May 31, A. D. 1873, (page 717 Special Laws, Thirteenth Legislature), or so much thereof as applies to the town of Moscow, or the "Moscow Masonic High School."

Section 1. Be it enacted by the Legislature of the State of Texas, That an act passed May 31, A. D. 1873, entitled "An Act prohibiting the selling or giving away of spirituous, vinous, malt, and other intoxicating liquors, within two miles of certain places therein named, in so far as it related to the town of Moscow, or the "Moscow Masonic High School" be, and the same is hereby repealed.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved February 13, 1874.

CHAPTER XII.

An Act making an appropriation to pay Judgment in favor of E. M. Smith, against the State of Texas.

Whereas, E. M. Smith did, under and by virtue of an act entitled "An Act for quieting the title to real estate in the city of Austin," approved the eighteenth day of December, 1857, which said act was amended by the thirty-third section of article three of the constitution of 1866, recover a judgment on the twenty-second day of June, A. D. 1872, in the district court of and for Travis county, against the treasurer of the State, for the sum of two thousand six hundred and ninety-eight dollars and sixty-two cents, and all costs of suit, which said costs amount to the sum of twenty-six dollars and eighty-five cents, and

Whereas, the original appropriation made for the payment of this claim has now become dormant, therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of two thousand seven hundred and twenty-five dollars and forty-seven cents, (\$2725 47,) be, and is hereby appropriated out of any money in the treasury not otherwise appropriated, for the payment of the same.

Sec. 2. That the comptroller of public accounts be, and is hereby required to draw his warrant upon the treasurer for said sum in favor of E. M. Smith, or his attorney, W. A. Blackburn.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved February 21, 1874.

CHAPTER XIII.

An Act to amend an Act entitled "An Act to incorporate the Agricultural, Mechanical and Blood Stock Association of Texas," approved October 20, eighteen hundred and sixty-six.

Section 1. Be it enacted by the Legislature of the State of Texas, That the said Agricultural, Mechanical and Blood Stock Association of Texas be and is hereby authorized to borrow money and issue its bonds therefor to any amount not exceeding fifty thousand dollars, and, to secure the same, may mortgage the property of said company; but before any such mortgage is made and executed, it shall be authorized by a vote of a majority of the stockholders in said corporation, at a meeting called for that purpose, after ten days' notice shall have been published in some paper published in the city of Houston.

Sec. 2. That this act shall take effect and be in force from and after its passage.

Approved March 20, 1874.

CHAPTER XIV.

An Act to provide for the repayment to James J. Gathings, of Hill County, Money illegally extorted from him by the State Police.

Whereas, On the day of January, A. D. 1871, the State police, under command of Adjutant General Davidson, by force of arms, extorted from James J. Gathings the sum of one thousand dollars in gold coin, worth at the time in United States currency eleven hundred and fifty dollars; and the further sum of one thousand seven hundred and sixty-five dollars in United States currency, amounting in the aggregate, in United States currency, to the sum of two thousand nine hundred and fifteen dollars (\$2915); and,

Whereas, The above amount has been erroneously and wrongfully used by the State in the payment of the State police, and the State credited with the amount; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be the duty of the Comptroller of Public Accounts to issue to the said James J. Gathings, twenty-eight treasury warrants for one hundred dollars each, and issue one for one hundred and fifteen dollars, which said warrants shall be paid as other warrants or requisitions on the State treasury.

Sec. 2. That the warrants herein provided for shall be receivable in payment of any demands in favor of the State, either in the hands of the original holder or in the hands of any person to whom the same may be endorsed.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved April 7, 1874.

CHAPTER XV.

An Act to amend Section thirteen of an Act entitled "An Act to incorporate the Galveston Bank and Trust Company," approved April 26, 1871.

Section 1. Be it enacted by the Legislature of the State of Texas, That section thirteen of the above recited act, which reads as follows: "Sec. 13. That if the sum of

five hundred thousand dollars be not subscribed and actually paid in within three years after the passage of this act, then all the privileges hereby and herein granted shall be forfeited," be and the same is hereby so amended as to read as follows: "Sec. 13. That if the sum of five hundred thousand dollars be not subscribed, and two hundred and fifty thousand dollars be not actually paid in, within three years from the passage of the above recited act, then all the privileges hereby and herein granted shall be forfeited.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved April 13, 1874.

CHAPTER XVI.

An Act to amend the First Section of an Act entitled "An Act to incorporate the Texas Banking and Insurance Company," approved the twenty-eighth day of June, A. D., eighteen hundred and seventy.

Section 1. Be it enacted by the Legislature of the State of Texas, That the first section of an act to incorporate the Texas Banking and Insurance Company, be so amended as to read as follows:

"Sec. 1. That J. M. Brandon, E. S. Jemison, W. L. Moody, R. S. Willis, M. Quin, Geo. Schneider, J. C. Wallis, C. L. Cleveland, W. A. Fort, W. B. Wall, J. D. Skinner, Leon Blum, J. H. Littlefield, E. Randall, Selim Rinker, T. E. Compton, and their present and future associates, successors and assigns, be and hereby are incorporated and created a body politic and corporate, by the name of the Texas Banking and Insurance Company, and by the same name and style they and their successors shall be capable of suing and being sued, and maintaining any action to final judgment and execution, and shall be in law capable of purchasing, holding, improving and conveying any estate, real, personal, or mixed, for the use of said corporation. And the said corporation shall have the power to ordain, establish and put in execution such by-laws, ordinances and regulations as shall be necessary for the government thereof; but for the enactment, altering or amending of such by-laws, it shall require an affirmative

vote of two-thirds of all stock issued, while for the transaction of ordinary business a majority of stock shall constitute a quorum. And it shall be lawful for the said corporation, after the expiration of the term for which it was incorporated, to use the corporate name and style and capacity for the purpose of suits for the final settlement and liquidation of the affairs and accounts of the corporation, and for sale and distribution of their estate, real, personal and mixed, but not for any other purpose, nor for a period exceeding three years after the expiration of the charter."

Sec. 2. That this act take effect from and after its passage.

Approved April 17, 1874.

CHAPTER XVII.

An Act to suspend the powers of an Act entitled "An Act to levy a Special Tax in the County of Angelina," passed May 23, 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That the powers granted in section one, of an act entitled "An Act to levy a special tax in the county of Angelina, authorizing the county court of Angelina county to levy a special tax for the purpose of erecting a courthouse and jail in the town of Homer, the county seat of said county," be and the same are hereby suspended until the first Monday in January, A. D. 1876.

Sec. 2. That this act take effect from and after its passage.

Approved April 17, 1874.

CHAPTER XVIII.

An Act relating to the Headright Claim of Louis Rosseau to three hundred and twenty acres of Land.

Section 1. Be it enacted by the Legislature of the State of Texas, That the grant of three hundred and twenty acres of land to the heirs of Louis Rosseau, by an act of the Legislature of the State of Texas, dated February 8, 1854, and erroneously granted to said heirs, be and the same is hereby annulled and made void.

Sec. 2. Be it further enacted, That the Commissioner of the General Land Office be, and he is hereby authorized and required to cancel the headright certificate issued under said act to the heirs of said Louis Rosseau, for three hundred and twenty acres of land as his headright, and thereupon issue to said Louis Rosseau his proper headright certificate for three hundred and twenty acres of land.

Sec. 3. That the petition of said Louis Rosseau, the land certificate for three hundred and twenty acres of land, issued to said heirs of Louis Rosseau, and the evidences and papers accompanying said petition be duly filed by the clerk of this House with the Commissioner of the General Land Office.

Sec. 4. That this act take effect from and after its passage.
Approved April 17, 1874.

CHAPTER XIX.

An Act to amend Sections five (5), eight (8), seventeen (17), and nineteen (19), of an Act entitled "An Act to incorporate the Orange, Jasper, and Shelby Railroad Company, and to Aid in the Construction of their Road."

Section 1. Be it enacted by the Legislature of the State of Texas, That sections five (5), eight (8), seventeen (17), and nineteen (19), of an act entitled "An Act to incorporate the Orange, Jasper, and Shelby Railroad Company, and to aid in the construction of their road," be, and are hereby amended as follows: That section five (5) of said act shall hereafter read as follows: "Section 5. The capital stock of this company shall be one million of dollars, to be increased to such an amount not to exceed three million of dollars, as may be requisite to carry out the objects of this company, divided into shares of one hundred dollars each, each share to entitle its holder, or owner, to one vote in all meetings or elections of the stockholders; and a majority of the stock shall govern, except in cases otherwise specially provided for. The said shares of stock shall be deemed personal property, and shall be transferable by any conveyance in writing, recorded by the secretary in the books of the company, kept by him in his office or in such other or further manner as the by-laws of said com-

pany may provide." That section eight (8) of said act shall hereafter read as follows: "Sec. 8. The said company is hereby invested with the right of locating and constructing, owning, operating and maintaining a railway, commencing at Sabine Pass, (Sabine city,) in Jefferson county, running thence to the town of Jasper, in Jasper county, thence through the counties of Jasper, San Augustine, Shelby and Panola, and terminating at Marshall, in Harrison county, or Jefferson, in Marion county; provided, the freight and passenger depots of said road shall be within a half mile of the courthouses in the town of Jasper or other county towns, when the direct line of said road passes within four miles of the courthouses of such towns; provided further, that each and every of said towns respectively, shall donate to said road, (the company owning it), the right of way with the necessary switches and turnouts, together with the necessary grounds for depots, not to exceed ten (10) acres." That section seventeen (17) of said act shall hereafter read as follows: "Sec. 17. That the gauge of this railway shall be three (3) feet or four feet eight and one half inches, at the option of said company; (provided, that should a three feet gauge be adopted, then only twelve sections of land per mile shall be granted by the State to said company, instead of the sixteen sections per mile that said company will be entitled to receive in the event of a four feet eight and one half inch gauge being adopted); its railings (rails) shall be of such weight, not less than twenty-four pounds per yard, as may be determined upon by said company; and said road shall be well and substantially built and fully equipped for passenger travel, and for the transportation of freight; and said corporation shall be subject to all laws now in force or that may hereafter be enacted by the Legislature governing railroads and railroad companies in this State, both as to rates of freight and passage, and as to the conduct of their officers and employees." That section nineteen (19) of said act shall hereafter read as follows: "Sec. 19. That eighty-five miles of this railway shall be completed within five years from the first day of January, A. D. 1874, and twenty miles each succeeding year, or this company shall forfeit all benefits from any land grants, except upon completed road. Said company shall also have authority to construct, own, and maintain, in connection with said railway, a line of telegraph along said route.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved April 20, 1874.

CHAPTER XX.

An Act to incorporate the Southwestern Railroad Company, and to grant Lands to aid in the Construction of its Road.

Section 1. Be it enacted by the Legislature of the State of Texas, That Mifflin Kennedy, Richard King, Robert Daltzell, Francisco Yturria, Jeremiah Galvan, Edward Downey, Wm. Kelly, of Brownsville; A. S. Thurmond, R. A. Upton, of Rockport; W. T. Norton, of Austin; J. W. Goodwin, of Bryan; J. H. Doran, of; Santos Benevides, of Laredo, Texas; Joseph Cooper, of New Orleans, Louisiana, and James Stillman, of New York, and their associates, be and they are hereby appointed commissioners to open books and receive subscriptions to the capital stock of a corporation hereby created, and to be styled "The Southwestern Railroad Company."

Sec. 2. That a majority of the commissioners shall constitute a board for the transaction of business, and shall hold meetings from time to time until directors shall be elected as hereinafter provided for, and such commissioners may be represented by proxy under power of attorney.

Sec. 3. That at the time of subscribing to the stock of this company, five per centum of the amount subscribed shall be paid in.

Sec 4. That the subscribers to the capital stock of this company are hereby created and established a body corporate and politic under the name and style of "The Southwestern Railroad Company," with capacity to contract; to sued and be sued; to plead and be impleaded; to have succession and a common seal; to grant and receive; to hold and alien such real estate as may be granted by the State and individuals to aid in the construction of the road; to make and enforce by-laws for its general government and the management of its business; and to do and perform generally all such acts as may be necessary and proper for the fulfillment of its obligations—the carrying out successfully the objects of this incorporation and the

maintenance of its rights and franchises under this act, not inconsistent with the constitution and laws of this State.

Sec. 5. The capital stock of this company shall be two hundred and fifty thousand dollars, to be increased by a vote of a majority of the stock to such an amount not to exceed five millions of dollars, as may be requisite to carry out the object of this company, divided into shares of one hundred dollars; each share to entitle its owner and holder to one vote in all meetings or elections of the stockholders, and a majority of the stock shall govern, except in cases otherwise specially provided. The said shares of stock shall be deemed personal property, transferable only on the books of the company, in such manner and under such restrictions and regulations as shall be provided in the by-laws of the company.

Sec. 6. That the commissioners herein named shall solicit subscriptions to the capital stock of said company; and whenever one hundred thousand dollars shall have been subscribed, and five per cent. thereof paid to them, they shall at once proceed to the organization of this company by calling a meeting of the subscribers, giving thirty days' notice thereof, and holding such meeting in the city of Brownsville, Texas: said notice to be published in one or more newspapers of the said city of Brownsville, and on the organization of the company said commissioners shall pay over any and all moneys in their hands to the treasurer of the company.

Sec. 7. That the organization of this company shall be effected by the election of a board of directors, of not less than seven (7), chosen by and from the stock subscribers, at the first meeting called for that purpose, in the manner and within the time indicated in this act; and the said directors shall hold office until the next regular election, which shall take place annually in the city of Brownsville, Texas, at the company's principal office, which is hereby made the legal domicile of the company, on the first Tuesday of January of each year; and in the board of directors so elected the direction and control of this corporation and all its affairs shall be vested.

Sec. 8. A majority of the directors shall constitute a quorum to do business, and at their first meeting shall elect one of their number president, and one vice-president, and shall appoint a secretary and treasurer, and as required, from time to time, such other officers and employees as may

be found necessary to carry on the business of the company.

Sec. 9. That said company, when duly organized, shall be, and is hereby invested with the right of locating, constructing, owning, operating and maintaining a railway, commencing at the water's edge, at or near the usual landing place for vessels at Brazos de Santiago, on the Laguna Madre, Cameron county, Texas, and running on a direct line as near as practicable, view being had to the general and special topography of the country, via White's ranch, on the Rio Grande river, or as near as convenient thereto, to the bank of the said Rio Grande river, within the corporate limits of the city of Brownsville, at or near Levee street of said city, thence to the city of Laredo, Webb county, Texas, and to the bank of the Rio Grande at said city, or to such point as the International railroad may touch the said river, together with such turnouts, branches and sidings and extensions as the company may deem it their interest to construct, with authority to construct, own, equip, and maintain, and thereafter use one or more branch roads from such points on the main line of their road to such point or points on the bank of the Rio Grande river, between the city of Brownsville and the mouth of the said river, and between the cities of Brownsville and Laredo, as the interest of the company may require; and said company shall have the right to purchase, construct and own any warehouses, docks, and wharves that may be convenient or necessary for the storage or transfer of freight transmitted to or from said road, and may charge therefor the rates usual for such accommodations; and said company is further authorized to construct, own, operate and maintain in connection with their said road, a telegraph line along their said railway.

Sec. 10. Any agreement in writing to subscribe for stock may be enforced according to the terms of subscription, and unless paid according to such terms, the directors may, after thirty days' notice, sell said delinquent stock, and transfer the shares of such delinquent to the purchaser; before said sale shall be made, the company shall notify, in writing, the subscriber of the time and place of sale.

Sec. 11. That said company shall have power to borrow money, to issue bonds or other bills of credit, with or without mortgage, upon its railway, its capital stock, its

corporate franchises, and any and all its real or personal property, or any part or portion thereof, and to purchase property upon its own credit for the purpose of constructing and maintaining its railway.

Sec. 12. That said company shall be subject to such general laws as are now, or that may be hereafter enacted for the regulation of railroad companies.

Sec. 13. That said company shall not consolidate, lease or sell its road to any parallel or competing road, and any violation of the provisions of this section shall operate to forfeit the charter of said company; provided, said company may arrange with any other company to run over or use its road for the rolling stock of this company, and may run over or use such other road under such restrictions and regulations as are now, or may hereafter be prescribed by any general law of this State.

Sec. 14. It shall be lawful for said company to enter upon, purchase, otherwise receive, take, hold, or obtain any lands for the purpose of locating, constructing, and maintaining said railway, with all the necessary depots, turnouts, sidings, extensions and buildings connected with said railway. When land cannot be obtained by agreement with the owner or owners thereof, the company shall pay such compensation as shall be determined in the manner hereinafter set forth; provided, that the land taken for this railway shall not exceed two hundred feet in width, unless for depots and buildings.

Sec. 15. Any person or persons whose land has been taken as aforesaid, without agreement or satisfactory compensation, may apply to the district court of the county for the appointment of appraisers, and said court shall thereupon appoint three disinterested freeholders of said county, who shall appoint a time and place to hear the applicant and said company, to whom reasonable notice shall be given by the said freeholders; and said freeholders shall, after being duly sworn, and after due hearing of the parties, determine the amount of compensation to which the applicant may be entitled; that in determining the amount of damage, the enhanced value of the land, in consequence of the road, shall not be taken into consideration, and make return of their award at the next succeeding term of said court, and said award, if not rejected by said court for sufficient cause there shown, shall be entered up as the judgment of said court. During the inquiry as to

the value of the land so taken, or the damage done to the estate of the owner, said company shall in no manner be molested or hindered in the prosecution of their work thereon or occupation of the same, but all officers of the law are authorized and required to render prompt assistance to said company in the premises.

Sec. 16. That said railway company shall have the right to cross all public highways; to bridge all water courses; to construct, operate and maintain a ferry or ferries when necessary to further the interests and deliver the freight of said company, and to cross the track of any other railway that is necessary to intersect in establishing this railway.

Sec. 17. That the organization of this company shall be perfected within six months from the date of the passage of this act, and ten (10) miles of said road shall be completed within two years, and ten (10) miles each year thereafter, or this charter shall be forfeited as to that portion not built.

Sec. 18. That this company shall have the right and the power to charge and collect such rates of freight and passage as the company may deem just and proper; provided, however, such charges are equal and uniform, and do not exceed the rates as are now or may hereafter be established by law.

Sec. 19. That said company shall be entitled to receive from the State of Texas a grant of sixteen sections of land for every mile of its road hereafter constructed under the provisions of this act and put in good running order in this State; and said company shall alienate the lands hereby granted and donated, except so far as may be necessary for the ordinary uses and operating said road, as follows, viz: one-fourth in eight years, one-fourth in twelve years, and one-fourth in sixteen years, and the remaining one-fourth in twenty years from the date of the location of the certificates, in such manner that the whole of such lands shall pass out of the lands of said company within twenty years after the date of their location; provided, that said lands shall not be alienated to any other railroad company or corporation, except so far as may be necessary for the proper use and conducting of the business of such company or corporation; nor shall said lands be alienated to any individual, firm or company in trust for said railroad company, or to any firm or company of which any officer

or stockholder of said railroad company is a member. And a failure to comply with the provisions of this act, and the general laws of the State on the subject, or a violation of the provisions of this act, and such general laws, shall work a forfeiture of all the benefits of this act; provided, that if said company shall construct the road herein provided for of a less gauge than four feet eight and a half inches in width, it shall be entitled to only twelve sections of land per mile of its road constructed and put in good running order; provided further, that the State of Texas shall not be liable for any deficiency in lands; provided further, that the gauge of said road shall not be less than three feet.

Sec. 20. That whenever said company shall have completed and put in good running order, as provided in this act, ten miles or more of its road, they may give notice thereof to the Governor of the State, whose duty it shall be to appoint some skillful engineer (if there be no State engineer) to examine said completed road; and if upon the report of said engineer, under oath, it shall appear that said road has been constructed and equipped in a good and substantial manner, and in accordance with the provisions of the charter of the company, this act and the general laws in this State at the time regulating railroads, thereupon it shall be the duty of the Commissioner of the General Land Office of the State to issue to said company certificates for six hundred and forty acres each, to the amount of sixteen sections per mile so completed and reported, if the gauge of said road is four feet eight and a half inches in width; but if of a less gauge he shall only issue certificates for six hundred and forty acres each, to the amount of twelve sections per mile; which said certificates shall be located and surveyed in alternate sections, the field notes and maps returned to the general land office and the odd sections patented to said company, and the even sections being reserved to the State for the school fund.

Sec. 21. That this charter shall remain in force for the period of ninety-nine years from the date of the passage of this act.

Sec. 22. That this act take effect and be in force from and after its passage.

Approved April 20, 1874.

CHAPTER XXI.

An Act to authorize the International and Great Northern Railroad Company to issue Bonds.

Section 1. Be it enacted by the Legislature of the State of Texas, That the International and Great Northern Railroad Company shall have power to borrow money on its bonds or notes at such rates as the directors may deem expedient, and to secure the same by mortgage or other lien upon its road or other property, or upon both; and said company may convert any bonds which may have been issued by either the International Railroad Company, or by the Houston and Great Northern Railroad Company into the stock of said International and Great Northern Railroad Company, at such rates as the directors may deem expedient, or into a new bond to be issued in the name of the said company.

Sec. 2. That all bonds issued or debts and liabilities incurred by either the International Railroad Company, or the Houston and Great Northern Railroad Company, shall be of the same binding force and effect upon said International and Great Northern Railroad Company, as they were upon the respective companies; and all acts heretofore done in the name of either of said companies shall have the same binding force and effect upon the said International and Great Northern Railroad Company that they had upon the respective companies; and all rights or liabilities existing between said companies or either of them and the State or third parties, shall inure to said International and Great Northern Railroad Company, the same as they existed with the respective companies.

Sec. 3. That this act shall take effect and be in force from and after its passage.

Approved April 24, 1874.

CHAPTER XXII.

An Act to encourage Irrigation in El Paso County, by granting Land in aid thereof.

Section 1. Be it enacted by the Legislature of the State of Texas, That any town or association of citizens of El

Paso county be and are hereby authorized and invested with the right and the power to construct a suitable ditch or ditches of sufficient capacity to irrigate the valley of the Rio Grande river in the county of El Paso; such ditches to be of an average width of not less than nine feet, and an average depth of not less than four feet, and the water from such ditches to be free to all citizens and land owners who will furnish their proportion of labor toward keeping the ditches clean and in repair, after the same shall have been constructed in accordance with the provisions of this act, and to be used and drawn from the main ditch under such restrictions and regulations as may be prescribed by the several towns who may construct a ditch or ditches as herein provided for, and when the same shall be constructed by an association of individuals under such rules, restrictions and regulations as may be prescribed by the county court.

Sec. 2. That the State of Texas does hereby donate and grant to any town or association of individuals of El Paso county, who shall construct an irrigating ditch in accordance with the provisions of this act, eight (8) sections of land for every mile of ditch so constructed; provided, that land shall not be granted for any ditch of a less length than five miles.

Sec. 3. That whenever any town or association of individuals, as herein provided, shall have constructed and put in good order such a ditch, as is required by this act, application may be made to the Governor of the State to have the same examined, whose duty it shall be to require the State engineer, if there be any, and if not, then to appoint some competent person to examine the same, and to make a report thereupon; and if the Governor shall be satisfied from said report that the work has been done in compliance with this act, he shall certify this fact to the Commissioner of the General Land Office, who, if as much or more than five miles in length of ditch has been made and put in use, shall issue to the said town or association of persons, eight (8) sections of land of six hundred and forty acres each, for each mile so constructed, and so on for each mile thereafter constructed. The said certificates shall be located in alternate sections, and under the same conditions as those issued to railroad companies are required to be by the general laws of the State; provided, that if the public domain should be exhausted or otherwise

disposed of before these certificates are located, they shall not constitute any claim whatever against the State.

Sec. 4. That this act take effect and be in force from and after its passage.

Approved April 25, 1874.

CHAPTER XXIII.

An Act to incorporate the Hearne, Belton and North-Western Railroad Company, and aid in Constructing the same by granting Lands thereto.

Section 1. Be it enacted by the Legislature of the State of Texas, That W. S. Rather, J. W. Embree, H. C. Denny, L. T. Methvin, W. A. Miller and Jno. C. Henry, be and they are hereby appointed commissioners to open books and receive subscriptions to a capital stock of a corporation to be styled "The Hearne, Belton and North-Western Railroad Company." A majority of said commissioners shall constitute a quorum to do business, and shall meet at such place as may be designated, within three months after the approval of this act, or as soon after as a majority thereof may agree upon, and they may appoint one or more of their members, or such other agents as they may select, to open books at such places as they may direct, to receive subscriptions for the stock of said company; and said commissioners shall hold meetings from time to time as their business may require, until directors shall be elected as hereinafter provided for. In receiving subscriptions to the capital stock, they shall require five per centum thereof to be paid at the time of subscribing, and any stock upon which the said five per centum is not paid shall be void, and the subscriber shall not be entitled to vote at any meeting of stockholders.

Sec. 2. The subscribers to said capital stock, whenever they shall have selected directors, are hereby created and established a body corporate and politic under the name and style of "The Hearne, Belton and North-Western Railroad Company," with power to do and perform all things necessary and proper to the maintenance of its rights under this act, and not inconsistent with the Constitution of the State of Texas; to have, hold and own real estate; sue and be sued; plead and be impleaded.

Sec. 3. The capital stock of said company shall not exceed two million dollars, to be divided into shares of one hundred dollars each, each share to entitle the owner thereof to one vote, in person or by proxy. A majority of votes cast shall govern in all cases not otherwise provided by law, and said stock shall be deemed personal estate, transferable only on the books of the company by person or by proxy.

Sec. 4. The direction and control of the affairs of the said company shall be vested in a board of not less than five nor more than nine directors, as the by-laws may provide, and they shall be chosen by the stockholders at their annual meeting, the first of which shall be holden within one year after the passage of this act, at such time and place as the corporation herein named shall designate. Said directors shall select one of their own body to be president of said company; shall fill vacancies in their board, appoint a secretary and a treasurer, and such other officers as they may deem necessary, and require bond, and make all rules for holding meetings and for their government; a majority of the directors shall constitute a quorum to do business, and shall have the power of a full board. All conveyances or contracts in writing, signed by the president and countersigned by the secretary, and other officers duly authorized by the board of directors under the seal of the company, when the same is in execution of an order of the board, shall be binding and valid.

Sec. 5. That so soon as one hundred thousand dollars of the capital stock of the said company is subscribed they shall cause the first election of directors to be held, first giving notice of the time and place of such election by publication in two or more newspapers in the counties through which the road shall run; and when said directors shall be organized, the said commissioners shall pay into the treasurer all moneys received upon subscription, and shall deliver to the president all books and other property belonging to the company.

Sec. 6. The said Hearne, Belton and North-Western Railroad Company shall be required to construct and put in running operation ten miles of its said road within two years after the granting of this charter.

Sec. 7. That said company, when it shall be organized, shall be and it is hereby invested with the right of locating, constructing, owning, operating, and maintaining a rail-

road at or near the city of Hearne, and running thence by the most direct route practicable, [route] through the county of Milam to a point in the present corporate limits of the town of Belton, in the county of Bell; thence to the town of Lampasas, in Lampasas county; and thence in a north-westerly direction to a point on the line of the Texas and Pacific Railroad, with the privilege of connecting with any other road or roads at their united intermediate or objective points.

Sec. 8. That the said Hearne, Belton and North-Western Railroad Company shall be entitled to receive sixteen (16) sections of land for every mile of road completed, or such quantity of land or other aid as may be granted under any general law of the State that may thereafter be enacted; and the Commissioner of the General Land Office is hereby directed to issue to said company certificates for said lands on the completion of the first ten miles of said road for the amount of land as above provided for; said ten miles, and the like amount on the completion of each subsequent ten miles.

Sec. 9. That the said Hearne, Belton and North-Western Railroad Company shall be governed by the general railroad law in its charges for freight and passage; in its securing and locating the right of way, they shall be entitled to take, as provided, lands not exceeding two hundred feet wide by compensating the owners thereof.

Sec. 10. This company shall be subject to all of the general laws now in force, or which may hereafter be in force, with regard to running over the road of one company by another, and may form a junction and connect with another road in such manner as may best and most certainly secure the construction of their railroad.

Sec. 11. That said company shall power to borrow money and issue its bonds, with or without mortgage; provided, that the same be done in conformity to the laws of the State of Texas, and the by-laws of the company.

Sec. 12. That this charter shall remain in force for the period of one hundred years from the time of its completion.

Sec. 13. The failure of the company to comply with the requirements of this charter, shall operate a forfeiture of all that part of the road not then completed.

Sec. 14. That this act take effect and be in force from and after its passage.

Approved April 25, 1874.

CHAPTER XXIV.

An Act to limit the amount to be issued in Bonds of the State to the International Railroad Company, and to provide for the payment of the same.

Whereas, Litigation has arisen on the claims of the International Railroad Company for bonds of the State to aid in the construction of their railroad under the act of August 5, A. D. 1870; and,

Whereas, It is of the uttermost importance that the liabilities of the State should be determined and definitely fixed, and all uncertainty as to the rights of said company should be removed; and,

Whereas, The said railroad company, by its authorized agent, has signified its desire to have a fair and equitable adjustment in a spirit of just and reasonable compromise of all questions between the said company and the State; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the obligation of the State to aid in the construction of the International railroad, by the donation of bonds to said company, in accordance with the provisions of an act entitled "An Act to incorporate the International Railroad Company, and to provide for the aid of the State of Texas in constructing the same," passed August 5, A. D. 1870, be and the same is hereby limited to that portion of said line of said railroad now constructed and to be hereafter constructed between the city of Jefferson, in Marion County, and the city of San Antonio, in Bexar county, in accordance with the terms, provisions and restrictions of the above named act; and that when the said bonds are issued and delivered to said railroad company on the aforesaid portion of said line of railroad, in accordance with the terms and conditions of the above named act, the State shall be and is hereby discharged from all other and further liabilities to grant aid in bonds of the State to said railroad company. And the acceptance by said company of said bonds on said portion of said line shall be a full, final and complete settlement of all claims and demands on the part of said company for bonds of the State, as provided under and by virtue of the above named act.

Sec. 2. That the said bonds to be issued and delivered to said company on said portion of said railroad shall be

signed, registered and delivered to said company in accordance with the terms, conditions, provisions and restrictions set forth in the above named act of incorporation, and they shall conform in all respects to the bonds described in said act, and shall bear interest from the date of the inspector's approval of each section of said railroad respectively.

Sec. 3. That to meet the payments of interest on said bonds, and provide a sinking fund for the payment of the principal, when the same shall become due, there is hereby levied on all the property in the State, which is or may hereafter be subject to taxation by the State, a sum sufficient to pay said interest and provide a sinking fund, as required in the constitution for the payment of said bonds, which sum the Comptroller of the State shall cause to be assessed and collected annually, in the same manner and under the laws providing for the collection of State taxes for general purposes; provided, that the tax herein provided for shall not be assessed and collected by the Comptroller until after the decision of the court as hereinafter provided.

Sec. 4. That on the acceptance of the provisions of this act by the stockholders of the International Railroad Company, which shall be done within forty days after the passage of this act, by a vote of the majority of the shares of stock of said company, and a certificate of said acceptance, signed by the chairman of said stockholders' meeting and certified by the secretary of said company, attested by the seal thereof, being filed in the office of the Secretary of State, it shall be the duty of the Governor to deliver to the president of said railroad company the bonds of the State, as provided in said above named act, on such part of said road as may then be constructed in accordance with the provisions of said act, and thereafter to deliver the bonds as aforesaid to said company on the aforesaid portion of the road, as the same shall be constructed, in accordance with the terms of the above named act; provided, that bonds as aforesaid shall not be issued for a greater distance than three hundred and seventy miles; provided, this act shall not be held, considered or construed in any sense as a recognition of the power of the Legislature to tax the people of this State for the purpose indicated, nor shall this act be held or considered as in any way interfering with the litigation now pending between

said railway company and the late Comptroller of the State of Texas.

Sec. 5. That said bonds shall not be delivered as aforesaid to said company, unless the Supreme Court of the State, in the suit instituted by said company against the late Comptroller of Public Accounts of the State, which suit was tried by the district court for Travis county at the June term, A. D. 1873, shall determine, in a decision on the merits, that said company is entitled to have and receive the said bonds.

Sec. 6. That all laws and parts of laws inconsistent with this act are hereby appealed.

Sec. 7. That this act shall be in force and take effect from and after its passage.

Approved April 25, 1874.

CHAPTER XXV.

An Act to amend an Act entitled "An Act to authorize the County Court of Comanche County to issue Bonds in the name of said County, for the purpose of erecting Public Buildings, and to fund the present indebtedness of said County."

Section 1. Be it enacted by the Legislature of the State of Texas, That section four of the above recited act shall be amended so as to read as follows: "That the county court of said county is hereby authorized to levy and collect a special tax upon all the property in said county taxed by the State;" provided, not more than one-quarter of one per cent. ad valorem shall be levied in any one year.

Sec. 2. That this act shall take effect and be in force from and after its passage.

Approved April 28, 1874.

CHAPTER XXVI.

An Act to incorporate the Gonzales Tap Railway Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That T. M. Harwood, W. D. W. Peck,

James F. Miller, T. S. Walker, J. C. Dilworth, George W. Littlefield, Hugh Lewis, F. F. Wood, Benj. Botts, Adam Fisher, A. T. Bass, E. Lewis, L. H. Planck, and those whom they may associate with them, their successors or assigns, be, and they are hereby constituted a body politic and corporate, under the name of the "Gonzales Tap Railway Company," by and under that name they and the stockholders in the same, their successors and assigns shall have succession for one hundred years, and are hereby granted the right, power and authority to enter into contracts to borrow money, to issue bonds, to execute mortgages, to have a common seal, to sue and be sued, to plead and be impleaded, and to establish such by-laws and regulations as the board of directors may seem proper, not inconsistent with the constitution and laws of the State of Texas and the United States.

Sec. 2. That the persons above named, or a majority of them, shall act as commissioners to receive subscriptions to the capital stock of said company, and shall select from their number seven, to act as the first board of directors, and who shall continue in office until their successors are duly elected and qualified in accordance with the by-laws of said company, to be by them, or a majority of them, adopted. The capital stock of said company shall be one million dollars, to be divided into shares of one hundred dollars each, and each share shall be entitled to one vote in all elections for directors, and in all stockholders' meeting, either personally or by proxy, and said shares shall be deemed personal property, and shall be transferred in writing, recorded by the secretary in the books of the company, or in such other or further manner as the by-laws of said company may provide.

Sec. 3. That said company shall have the right, and the authority is hereby given them, to construct, equip, operate and own a line of railroad, together with a telegraph line, from the city of Gonzales, thence in a northerly direction to some eligible point of intersection with the Galveston, Harrisburg and San Antonio railway.

Sec. 4. That said company shall have the right to make any and all preliminary surveys; to enter upon and take possession of lands to the extent of two hundred feet in width, for the purpose of roadbed and construction, and such additional quantity of lands for purpose of depots, sidings, turnouts, machine shops, and other buildings as

may be necessary by any agreement had with the owner, if the property of private owners; and if no agreement can be made, or the owner or owners be absent or unknown or minors, then the property shall be acquired in accordance with the general railroad law of the State.

Sec. 5. The said company shall commence and have completed said road within five years from and after the approval of this act.

Sec. 6. That said company shall be entitled to all and any rights, powers, privileges, aid, benefits and immunities conferred by the general laws now existing, or that may hereafter be passed by the Legislature of the State of Texas in relation to railroad corporations.

Sec. 7. That the State of Texas hereby donates and grants to said company sixteen sections of land of six hundred and forty acres each, for each mile of railroad said company may complete and put in good running order on said line as hereinafter provided. Whenever said company shall complete said railroad, they may inform the governor of the fact, and it shall be his duty to appoint some skillful engineer to examine said road, whose duty it shall be to examine the same and report thereon under oath to the commissioner of the general land office, and if it shall appear from such report that said railroad has been completed and put in good running order in accordance with this charter and the laws of the State, the said commissioner shall issue to said company sixteen land certificates of six hundred and forty acres each, for each and every mile of railroad so completed by said company.

Sec. 8. That the land certificates issued to said company under the provisions of this act, shall be located and surveyed in alternate sections, upon the unappropriated public domain of the State; that is to say, for each certificate so issued, shall cause to be surveyed two sections of land of six hundred and forty acres each adjoining, and shall return to the general land office the field notes and maps, whereupon the commissioner of the general land office shall number said sections, and shall issue to said company or their assignees, patents to the odd sections, the even sections being reserved to the State for the school fund; provided, the State shall in no event be responsible or liable for any deficiency in the public domain; and the certificates issued to said company under the provisions of this act, not located because the public domain has

been exhausted, shall constitute no claim against the State.

Sec. 9. That said railroad company shall alienate the lands acquired under the provisions of this act, as follows: one-fourth in eight years, one-fourth in twelve years, one-fourth in sixteen years, and the remaining fourth in twenty years from the date of the issuance of said certificates, except so far as is proper and necessary for the use and conducting the business of said company; provided, said company shall not alienate said lands to any other corporation, except so far as may be necessary and proper for the conducting the business of said company; nor to any person, firm, or corporation, in trust for said company, nor to any firm or corporation, or company of which any of the officers or stockholders of said company are members; and any violation of, or failure to comply with the provisions of this section by said company, shall work a forfeiture of the lands so conveyed, contrary to the provisions of this act.

Sec. 10. That said railroad company shall be subject to the laws of this State now or hereafter to be in force, and the State of Texas reserves the right at any and all times to regulate the freights and charges upon said road, and to regulate at any and all times the conduct of said company as a common carrier.

Sec. 11. That this act shall take effect and be in force from and after its passage.

Approved April 28, 1874.

CHAPTER XXVII.

An Act to incorporate the Texas Midland, Gulf and New Orleans Railway, and to aid in the Construction of the Same.

Section 1. Be it enacted by the Legislature of the State of Texas, That James McKaye, J. C. Colton, J. N. Smith, W. A. Taylor, Nelson Beall, J. U. Orvis, D. T. Chamberlain, J. W. Downs, H. R. Martin, C. C. Campbell, G. W. Gentry, and J. B. Robertson, and their associates and successors be and they are hereby constituted and created a body corporate and politic under the name and style of "The Texas Midland, Gulf and New Orleans Railway Com-

pany," and by said name shall have succession and a common seal, with capacity to contract and be contracted with, and in said name to sue and be sued; to plead and be impleaded; to grant and receive; to make and enforce by-laws, rules and regulations for its government, and generally to do and perform all acts and things necessary and proper for its interests and to maintain its rights under this charter, that are not unlawful.

Sec. 2. The direction and control of said corporation and of its business, shall be vested in a board of nine directors, to be chosen by the stockholders of the company at the meeting at which a permanent organization shall be effected, or as soon thereafter as practicable, and annually thereafter as may be regulated by the by-laws of the company. Said directors may be residents or non-residents, and the stockholders shall have the power at any annual meeting of increasing their number to eleven, if deemed advisable. The persons named in the first section of this act shall constitute the first board of directors, and shall hold their offices until their successors have been elected and qualified, and their first meeting shall be held at such time and place as they may deem proper, after a call published thirty days in two newspapers of the State of Texas, signed by a majority of said board, when they may organize for business, appoint time and place for opening subscription books, fix the number of shares and amount of each, and when two hundred thousand dollars of the stock shall be subscribed, and ten per centum thereof paid in, they may call a meeting of the stockholders for permanent organization, by thirty days' notice in three newspapers, published in the State of Texas.

Sec. 3. A majority of the stockholders shall constitute a quorum to do business. They shall elect a president and vice president, shall fill all vacancies that may occur in their board; appoint a secretary and treasurer, and such other officers and agents as they may deem proper, and may require bond and security for the prompt and honest discharge of their duties; make all proper by-laws, rules and regulations for holding their meetings and other purposes that they may deem necessary or proper, not inconsistent with the general laws or this act.

Sec. 4. The capital stock of said company shall be five million dollars, which may be increased by a vote of two-thirds of the stockholders, representing two-thirds of the

stock, to such amount not exceeding ten million dollars, as may be deemed requisite to carry out the objects of the company, to be divided into shares of such amount as the directors may determine, each share to entitle the owner thereof to one vote in all meetings and elections in which the stockholders are entitled to vote, and a majority of voters shall govern in all cases not otherwise provided by law. Such stock shall be transferable in such manner as may be provided by the by-laws of the company.

Sec. 5. That the said railway company shall have power to borrow money and issue its bonds with or without mortgage; provided, that the same be done in conformity to the laws of the State, and the by-laws of the company.

Sec. 6. The said company shall be and is hereby invested with the right of locating, constructing, owning, operating and maintaining a railway and telegraph line, beginning at some point on the Houston and Texas Central Railway, between the towns of Hearne and Bremond, in the county of Robertson, as may be found by said company most practical; thence crossing the Brazos river in a northwest direction, passing up the waters of the Bosque and Leon rivers, through the town of Comanche, in Comanche county, and to intersect the Texas and Pacific Railroad, in the county of Shackelford or Jones. If the line of said road shall pass within five miles of the county seat of any county, said company shall establish and maintain within one-half mile of the public square of such county seat a freight and passenger depot. Said company shall not have the right to consolidate with, lease to or lease any line of railway running parallel with the said line of road, and no clause in this act shall be construed as to allow consolidation with any parallel line of road; and said company are hereby authorized to continue their line of road from the intersection of the Texas and Pacific road in the same general direction to the limits of the State.

Sec. 7. The said company shall have the right of way over the State of Texas on their line, and it shall be lawful for said company to enter upon, purchase or otherwise to receive, take, hold or obtain, in the manner provided by the laws of this State, any lands necessary for the purpose of locating, constructing and maintaining said railway with all needed depots, turnouts, sidings, extensions, machine shops and buildings connected with said railway. And when lands cannot be obtained by agreement, the lands

taken shall not exceed two hundred feet in width, unless for depots, turnouts, sidings, machine shops and so forth; and said company shall have the usual right of railways to cross and connect with other roads and to consolidate with any other road; and whenever the line shall pass over the public domain, the right of way two hundred feet wide with all necessary land for depots, turntables, sidings and so forth, with all rock and timber and earth necessary in the construction and maintenance of that portion, is hereby granted to the company.

Sec. 8. That said company shall commence the construction of their road at any point on said line which may be deemed most advisable, within one year after permanent organization, and shall complete and put in order twenty-five miles of their road within one year thereafter, and twenty-five miles each succeeding year thereafter until completed, and said permanent organization shall be perfected within six months after the passage of this act; and upon failure to do so said company shall forfeit all benefits under this charter, except on so much of their road as may be completed.

Sec. 9. The State of Texas hereby donates and grants to said company, out of any unlocated public lands of the State, sixteen sections of land of six hundred and forty acres each, for each and every mile of railway completed and put in running order by them; and whenever any section of ten miles has been so completed, the said company may give notice thereof in writing to the Governor of the State, whereupon it shall be his duty to order the State Engineer, if there be one, or other competent engineer, if there be not, to examine said section and report under oath, and if said section be found to be so completed and in running order, then the Governor shall immediately certify the same to the Commissioner of the General Land Office, whose duty it shall be immediately to issue to said company sixteen land certificates of six hundred and forty acres each, for each and every mile of road completed, also one for each and every ten miles of road completed. All the certificates so issued shall be located in alternate sections, that is to say: for every sixteen sections located by said company, for its own use, it shall also locate sixteen other sections for the State, and return the field notes and the maps of the whole thirty-two sections to the Commissioner of the General Land Office, who shall number said

sections so surveyed and issue patents to said company for the sections numbered in odd numbers, reserving the even numbers for the school fund; and said company shall alienate their lands acquired under the provisions of this act, except so much thereof as may be necessary for the use and successful operations of their road, as follows: one-fourth in eight years, one-fourth in twelve years, one-fourth in sixteen years and the remaining one-fourth in twenty years from the date of the issuance of the certificates, in such manner that the whole shall pass out of the hands of the company within twenty years from the dates of the certificates; provided, that said lands shall not be alienated to any other railway company or corporation, except so far as may be necessary for the conducting of the proper business of said corporation, nor shall said lands be conveyed to any person, firm or company in trust for said railway company; and provided further, that the State shall not be liable for any deficiency of the public domain, and no land certificate issued under this act, which shall not be located by reason of such deficiency, shall never constitute any claim against the State. And on failure to comply with the provisions of this section, or any violation of the same, the said company shall forfeit all right to lands secured by this act not alienated according to law.

Sec. 10. The said railway company shall be constructed of such width of gauge as the directors may establish, not less than four feet eight and one-half inches; and said company shall have the power to charge such rates of freight and passage as may be just and proper; provided, such rates be not higher than those that may be established by any general law of the State on the subject; and the right is expressly reserved to the Legislature to fix the rate of charges for freight and passage by general laws.

Sec. 11. That this act take effect and be in force from and after its passage.

Approved April 29, 1874.

CHAPTER XXVIII.

An Act supplemental and amendatory of an Act entitled "An Act to Incorporate the Texas and Midland Gulf and New Orleans Railway, and to aid in the Construction of the same," passed at the present session of the Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That section six of the above recited act shall hereafter read as follows: "Section 6. The said company shall be, and is hereby invested with the right of locating, constructing, owning, operating and maintaining a railway and telegraph line, beginning at some point on the Houston and Texas Central railway, between the towns of Hearne and Bremond, in the county of Robertson, as may be found by said company most practicable, thence crossing the Brazos river in a northwesterly direction, passing up the waters of the Brazos, through the corporation of the town of Waco, thence up the waters of the Bosque and Leon rivers to the town of Comanche, in Comanche county, and to intersect the Texas and Pacific railroad in the county of Shackelford or Jones. If the line of said road shall pass within five miles of the county seat of any county, said company shall establish and maintain, within one-half mile of the public square of such county seat, a freight and passenger depot. Said company shall not have the right to consolidate with, lease to, or lease any line of railway running parallel with the said line of road; and no clause in this act shall be construed as to allow consolidation with any parallel line of road; and said company are hereby authorized to continue their line of road from the intersection of the Texas and Pacific road in the same general direction to the limits of the State.

Sec. 2. That this act take effect from and after its passage.
Approved April 29, 1874.

CHAPTER XXIX.

An Act to Validate the Election for a Corporation and Officers of the Corporation of the Town of Carthage.

Section 1. Be it enacted by the Legislature of the State of Texas, That the election held in the town of Carthage

on the eleventh day of March, 1874, for a corporation or no corporation of said town, and an election held in said town on the sixth day of April, 1874, for the election of the officers of said town, be, and the same are hereby declared valid, and said town of Carthage is hereby declared to be legally incorporated under the acts of the legislature of Texas, passed on the twenty-eighth day of January, 1858, and an act supplemental thereto passed on the twenty-sixth day of May, 1873.

Approved April 29, 1874.

CHAPTER XXX.

An Act to legalize the Unconditional Certificate of Three Hundred and Twenty (320) Acres of Land issued to Josiah Powers.

Section 1. Be it enacted by the Legislature of the State of Texas, That the unconditional headright of certificate No. 8, class 2, for three hundred and twenty acres of land issued to Josiah Powers, by the board of land commissioners of DeWitt county, and dated April 10. A. D. 1848, be, and the same is legalized and validated; and that the commissioner of the general land office be, and he is hereby authorized and directed to issue a patent on the same to the said Josiah Powers.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved April 29, 1874.

CHAPTER XXXI.

An Act to incorporate the "Henderson and Overton Branch Railway Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That R. W. Oliver, Wiley Harris, Jiles S. Bog-gess, jr., Wm. S. Moss, A. B. Collins, J. H. McLarty, A. D. Tinsley, Webster Flanagan, Taylor Brown, sr., A. J. Smith, N. G. Bagley, Thomas Lloyd, Ras Redwine, R. R. Holton, T. J. Trammell, sr., T. H. Coleman, James Hamelton, James Cliborne, J. E. Norvell, T. J. Lacy, A. R. Crow, Ruben Cook, Dr. A. C. Neal, Arthur Buckner,

and such others as they may associate with them, are hereby created a body politic and corporate under the name of the "Henderson and Overton Branch Railroad Company," and by such name they may sue and be sued; make contracts; have and hold real and personal property by grant, donation or purchase, or sell, transfer or alienate the same. Said company shall have succession for ninety-nine years, and a corporate seal.

Sec. 2. That said persons named in the first section of this act, their associates or assigns, shall constitute the first board of directors. They shall have the right to elect a president, vice president, secretary, treasurer and attorney; the other officers and agents of the company shall be appointed in such manner as the said directors may ordain and establish. The said directors shall have power to make by-laws, rules and regulations for their government, so as carry out the intent of this act, and to appoint an executive committee and confer upon it such powers as they may see fit, not inconsistent with the laws of the State or United States, to provide for the future election of officers, and to fix the place for the principal office of the company, and change the same at pleasure; to provide for issuing of stock and transfer of the same; to provide for issuing of the bonds of the company; to mortgage and hypothecate the road bed; voting stock and all other property of said company; to raise funds to build or equip said road.

Sec. 3. That said company shall have the right to construct, own and operate a first class road of whatever guage they may see proper, from Overton on the International railroad to Henderson, in Rusk county, Texas. That said company shall have the right to connect their road with the International railroad at Overton; provided, that if the guage of the road is under four feet eight inches and a half and not less than three feet, the company shall be entitled to only twelve sections of land to the mile of its road so completed and constructed.

Sec. 4. Said company shall have the right of way along their entire route, not to exceed two hundred feet in width over all lands of the State, and the free use of rock, timber, gravel and earth thereof, and the terms of the general laws of this State to procure the release of the right of way from the owners of the land along the route, and shall have the right to construct and operate a telegraph line along their

entire route, and to build and construct bridges across all streams along their line.

Sec. 5. That this company shall receive sixteen sections of land for every mile of said road that shall be constructed and put in good running order.

Sec. 6. That the capital stock of said company shall be two hundred thousand dollars, with the privilege of increase to any sum not to exceed six hundred thousand dollars, divided into shares of one hundred dollars each.

Sec. 7. Said company shall have the whole line completed in five years from and after the passage of this act.

Approved April 29, 1874.

CHAPTER XXXII.

An Act to incorporate the Alamo Rifles of the City of San Antonio.

Section 1. Be it enacted by the Legislature of the State of Texas, That George S. Deats, Henry C. Thompson, James R. Marmion, Alex. G. Schnetz, John W. Littell, John Kinehan, Thomas Hughes, A. J. Lockwood, N. J. Petrich, A. Prescott, C. K. Crawford, H. Wagenfehr, Joseph Schnetz, John A. Ferris, B. F. Kelly, Andreas Coy, G. Fresch, James H. McLeary, H. L. Berg, L. C. Navarro, Anton Adam, W. H. Huston and Harry MacCormack, and others who are or may hereafter become associated with them in said company, and their successors, be and are hereby constituted a body corporate and politic under the name and style of "Alamo Rifles," and by that name said corporation shall have succession and be capable in law to sue and be sued; plead and be impleaded; to ordain a constitution and by-laws for their government, not to conflict with this charter or any law of this State; and they shall have a common seal with any design they may choose; and to purchase, hold and sell real estate and personal property in any amount not exceeding fifty thousand dollars; and the said company shall elect their own officers, trustees and directors, and that there shall never be a less number of men in said company than twenty-five, nor a greater number than one hundred.

Sec. 2. The officers and members of this company shall be exempt from common militia drills and jury duty.

Sec. 3. The said company shall have power to provide by their constitution and by-laws for courts of investigation and courts martial to try all violations of their constitution, by-laws, rules and regulations, by any of their own members, and to punish such violations by suspension, expulsion, or fine not to exceed one hundred dollars.

Sec. 4. The said company shall have power to collect all fines legally imposed by virtue of this charter, by suit in the court of the justice of the peace of precinct number one of Bexar county, and the certificate of the commanding officer of the company, attested by the secretary and authenticated by the common seal of the company, shall be sufficient evidence of the legal imposition of such fine, and judgment shall be rendered thereon and execution issue as in other cases.

Sec. 5. The commissioned officers of this company shall be one captain, one first lieutenant, and two second lieutenants, to be commissioned by the Governor, subject when ordered on duty to be trained and governed by the militia of the State, and the rules and regulations governing the same.

Sec. 6. Whenever said company shall be called into active service by the Governor, or other person having lawful authority to call out the State militia, they shall be entitled to receive such camp and garrison equipage as is usually allowed and furnished to the best military companies by the government of this State.

Sec. 7. This company shall at all times be subject to the civil authorities of the State, and to the orders of the Governor of the State, in case their services are required.

Sec. 8. The commanding officer of the company shall, on the first day of January in each year, file in the office of the clerk of the district court a complete list of all the officers and members of the company at that date.

Sec. 9. The non-commissioned officers of this company shall be one orderly sergeant, four duty sergeants and four corporals.

Sec. 10. The commissioned officers of the company shall be elected annually on the sixth day of March, or as soon thereafter as practicable, and the returns of the election shall be made by the orderly sergeant, under the seal of the company, to the chief justice of Bexar county, directed to the Governor of the State, who shall commission such officers as soon as he receives the returns of the election.

Sec. 11. All property, whether real or personal, belonging to the company shall be vested in the commissioned officers of the same, to be held in trust for the company.

Sec. 12. This act shall be in force and take effect from and after its passage.

Approved April 29, 1874.

CHAPTER XXXIII.

An Act to prohibit the sale of Intoxicating or Spirituous Liquors within two miles of certain places.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be unlawful for any person or persons to dispose of any intoxicating or spirituous liquors by sale or otherwise within two miles of the following places, to-wit: the Masonic Institute at Melrose, in Nacogdoches county; Millican, in Brazos county; Baylor University, in Independence, Washington county; New Hope Church and school-house, in Johnson county; Pleasant Grove Church, Lamar county; Mt. Zabor Church, Lamar county; Antioch Church, Lamar county; Maysfield Academy, Milam county; Hepziah Church and schoolhouse, in Coryell county; Iradell school, in Bosque county; White House Church and Academy, in Smith county; Peoria, in Hill county; Lost Prairie, in Limestone county; Mount Pleasant camp ground and Ladonia Male and Female Seminary, Fannin county; Douglassville College, Cass county; Weston school-house, in the town of Weston, Collin county; Lancaster Masonic Institute, at Lancaster, Dallas county; Powell Dale, Bosque county; Merriltown, Travis county; Dresden school-house, Navarro county; Hooker's school-house, Rains county; Bristol, Ellis county; Forest Grove Church, Lamar county; Garden Valley, Smith county; Liberty Church, in Milam county; Woodbury, Hill county; Evans' school-house, Williamson county; Turner's Point Academy, Kaufman county; Fitzgerald school-house, Anderson county; Howard and Tunshire, in Bell county; Blossom Prairie depot, Lamar county; Aurora, in Wise county; Moulton, in Lavaca county; Heffner's Chappel, in Hunt county; and Mantua, in Collin county.

Sec. 2. That any person or persons violating the provisions of this act shall, upon conviction thereof in any court of competent jurisdiction, be fined in any sum not less than ten nor more than one hundred dollars for each and every offense.

Sec. 3. That this act shall take effect and be in force from and after the first day of January, 1875.

Approved April 30, 1874.

CHAPTER XXXIV.

An Act to incorporate the Houston and Brazos Canal and Navigation Company, and to grant State aid thereto.

Section 1. Be it enacted by the Legislature of the State of Texas, That J. R. Morris, M. N. Brewster, Charles Stewart and their associates, be and are hereby appointed commissioners to open books and receive subscriptions to the capital stock of a corporation hereby created to be styled: "The Houston and Brazos Canal and Navigation Company."

Sec. 2. That the majority of the commissioners shall constitute a board for the transaction of business, and shall hold meetings from time to time until directors shall be elected.

Sec. 3. That at the time of subscribing to the stock of this company, five per centum of the amount subscribed shall be paid to the commissioners or the directors, and whenever one hundred thousand dollars are subscribed the company shall be fully organized for the transaction of business.

Sec. 4. The subscribers to the capital stock of this company are hereby established a body corporate and politic, under the name and style of "The Houston and Brazos Canal and Navigation Company," with capacity to contract, to sue and be sued, to plead and be impleaded, to have succession and a common seal, to grant and receive, to make by-laws, and generally to do and perform all things necessary and proper to maintain their rights under this act.

Sec. 5. The capital stock of this company shall be two hundred thousand dollars, to be increased to such amount,

if required, as may be requisite to carry out the objects of this company, divided into shares of one hundred dollars each; each share shall entitle its holder and owner to one vote at all elections, and a majority of stock shall govern; the said shares of stock shall be deemed personal estate, transferable only on the books of the company.

Sec. 6. The direction and control of said corporation and its affairs shall be vested in a board of seven directors to be chosen by the stockholders at an annual meeting, the first of which shall be held in the city of Houston, whenever one hundred thousand dollars shall have been subscribed and paid as heretofore provided.

Sec. 7. A majority of the board shall constitute a quorum to do business; at their first meeting, they shall elect one of their body, president, and one vice-president. The board shall appoint a secretary and treasurer, and other officers requisite to carry on the business of the company.

Sec. 8. That said company, when duly organized, shall be and is hereby invested with the right of locating, excavating, constructing, owning, operating and maintaining a canal, commencing at or near Buffalo bayou, in or near the city of Houston, and running westerly either in the channel of Buffalo bayou or otherwise as the said company may elect, and terminating on the Brazos river in Austin or Waller county, with the privilege of erecting such dams, locks, tramways, water-wears and creating such slackwater navigation as may be deemed to the interest of the company and the successful maintenance and operation of said canal.

Sec. 9. It shall be lawful for said company to enter upon, purchase, or otherwise receive, take, hold and appropriate any lands necessary for locating, constructing, excavating or embanking and maintaining said canal, with all the necessary locks, water-wear approaches, inlets or outlets connected with or useful to the operators of said canal; when land cannot be obtained by agreement, the land taken for this canal shall not exceed one hundred and fifty yards in width, unless for buildings, waste water-locks, or other necessary conveniences during the construction and operation of said canal.

Sec. 10. That said company shall have the right to cross all public highways, and all railroads that it may be necessary to cross to establish and complete said canal, erecting such bridges and crossings as the various cases

may require; provided, that nothing in this act shall be so construed as to confer any right upon said company to prejudice the navigation of the Brazos river.

Sec. 11. That the said canal company shall have the power to borrow money, issue bonds or bills of credit, with or without mortgage; provided, it is done in conformity to a vote of two-thirds of the directors; and generally this company shall have all the power requisite to carry into effect the objects of the company.

Sec. 12. That this canal shall be constructed not less than thirty feet wide at its surface, and of not less depth than three feet, with locks, when requisite, of sufficient capacity to pass boats, lumber rafts, or other craft at least twenty feet in width, and sixty feet in length; and that all boats, barges, rafts or craft, navigating or passing through this canal, shall be entitled to right of passage and locking in their due order of arrival.

Sec. 13. That said company are authorized to construct, own, and navigate any and all craft, boat and barges required for transportation, either on the bodies of said canal, slackwaters, created or existing, connected with the waters of the canal, or any navigable waters with which said canal may connect by lockage or otherwise; that the company shall be able to contract for and charge and collect pay for the use of water drawn from their canal for hydraulic power or for irrigation, at such rates and prices as may be agreed upon by the persons wishing the use thereof, but in no case shall the said company flow lands to the detriment of owners without their consent, or on due payment to the parties aggrieved.

Sec. 14. That this company shall have power to charge and collect such rates of freight, and such water rates as they may deem just and proper; provided, that freight rates shall not exceed, by the pound, avoirdupois, or by the cubic foot, over the rates allowed by law on railroad freights over the same distances.

Sec. 15. The first meeting of the company shall be called by the commissioners whenever one hundred thousand dollars of the capital stock shall have been subscribed, by giving thirty days' notice in some paper published in Houston, and the stockholders shall then proceed to elect directors, who shall hold office until the annual election, which shall take place in the city of Houston, on the first Tuesday of January, in each year; should a majority of

the stock be represented, the election shall proceed; if not, directors shall appoint another, within thirty days thereafter, and an election on that day shall be valid; directors elected under the provisions hereof, shall hold their office for one year, and until their successors are duly elected and qualified. No person shall be a director who does not own at least ten shares of the capital stock of the company.

Sec. 16. That the State of Texas hereby donates and grants to the said canal company for the purpose of aiding in its construction, out of any unlocated public lands of the State, eight sections of land, of six hundred and forty acres each, for each and every mile of canal constructed and put in substantial canal navigating order by them, and whenever any section of ten miles of said canal has been completed, the said company, through its president or secretary, may give notice of the same to the Governor of this State, in writing, whose duty it shall be on the receipt of said notice, to order the State engineer, if there be any, or if not, to appoint a skillful engineer to examine said section of said canal, and report under oath; and if said section of ten miles of said canal be found to be constructed and in good boating order in a substantial manner, then the Governor shall certify the same to the commissioner of the general land office, and he shall issue to said canal company eight land certificates of six hundred and forty acres each, for each and every mile of canal so constructed and put in navigating order, and in like manner with each and every succeeding section of ten miles of said canal, until the whole has been completed; all the certificates issued as above to said company shall be located by them in alternate sections; that is to say: for every eight sections located by said company for its own use, said company shall locate also for the State at the same time, other eight sections of land for the State, and return the field notes and maps of the whole sixteen sections to the commissioner of the general land office, who shall number said sections so surveyed, and issue patents to said company for the sections numbered in odd numbers, reserving the even numbers for the school fund, and said company shall alienate their said lands acquired under the provisions of this act, except so much thereof as may be necessary for the uses and successful operation of their canal, as follows: one-fourth in eight years, one-fourth in twelve years, one-

fourth in sixteen years, and the remaining one-fourth in twenty years from the date and issuance of the said certificates; provided, said company shall not alienate or sell said lands to any other corporation, nor to any person or firm in trust for said company, nor to any firm or corporation of which any officer or stockholder is a member. And on failure to comply with the provisions of this section, or on violation of the same, said company shall forfeit all benefits under this charter; provided further, that the State shall in no case be liable for a deficiency of public domain, and no land certificate issued under the provisions of this act, which may not be located because of the previous exhaustion of the public domain, shall ever constitute any claim against the State.

Sec. 17. That the charter shall remain in force and effect for the period of fifty years from the date of the completion of said canal, and said company shall be entitled to, and shall receive from the State such loans or assistance, advantages or immunities as may be granted to any canal company, or to which any companies engaged in internal improvements shall be entitled to receive or shall obtain from the State.

Sec. 18. That this act shall take effect and be in force from and after its passage.

Approved May 1, 1874.

CHAPTER XXXV.

An Act supplemental to an Act entitled "An Act to incorporate the Houston and Brazos Canal and Navigation Company, and to grant State aid thereto," passed at the First Session of the Fourteenth Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That the before named Houston and Brazos Canal and Navigation Company shall finish, and complete at least five miles of the work proposed in said act within five years from the passage thereof, and shall finish and complete the whole work within fifteen years therefrom, otherwise its rights granted in said act shall be forfeited.

Sec. 2. That this act take effect and be in force from its passage.

Approved May 1, 1874.

CHAPTER XXXVI.

An Act to incorporate the South-Western and Rio Grande Railroad Company and aid in the construction of the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That L. T. Barrett, B. Hardeman, H. J. Mathews, W. H. Swift, William Martin, J. D. Martin, J. C. Swift, William Carrow, Wm. P. Wilson, E. S. Hicks, R. L. Parker and Fred. Voigt, of the State of Texas, and James Heffner, Charles W. Kutting, Thomas Poland, Wm. E. Hamilton, N. W. Murphy, W. S. Haren, Benj. Jacobs, and James B. Foster, of the State of Louisiana, and all such persons as shall or may be associated with them, and their successors, are hereby created a body politic and corporate in fact and in law, by the name of the "South-Western and Rio Grande Railroad Company," and by that name shall have perpetual succession, and shall be able to sue and be sued, plead and be impleaded, defend and be defended in all courts of law and equity, and make and have a common seal, and the same to alter at the pleasure of the board of directors.

Sec. 2. That said company and corporation is authorized to lay out, construct, finish and maintain, operate and enjoy a continuous railroad and telegraph line, with all appurtenances, namely: beginning on the western bank of the Sabine river, opposite or in the vicinity of Logansport, State of Louisiana, thence in a south-westerly direction by the way of Center, in Shelby county, and Nacogdoches, in Nacogdoches county, to Belton, in Bell county, or within one half mile of those places, if the road runs within five miles of said places; thence to the town of Burnett, in Burnett county, by the most practicable route to be determined by the board of directors, to or in the vicinity of the mouth of the Rio Pecos river, on the Rio Grande river; provided, that whenever the direct line of said road shall run within five miles of any county seat, the company shall establish and continue a passenger and freight depot, in one half mile of said town.

Sec. 3. Be it further enacted, that the amount of stock to be subscribed, necessary to an organization, shall not be less than one hundred thousand dollars, in shares of one hundred dollars each, of which amount of stock ten per

cent. shall have been paid in; that the capital stock of said corporation shall not be less than five hundred thousand dollars, and shall not exceed five millions of dollars, unless by a majority of the stockholders, each share of stock being entitled to one vote, which capital stock shall be divided into shares of one hundred dollars each; and the payment on said shares of stock shall be made in such manner and upon such notice as may be made and provided by the board of directors; provided, that payments on said shares of stock shall not exceed twenty-five per cent. thereof at any one time, nor be made oftener than once every sixty days.

Sec. 4. Be it further enacted, that the first meeting of the above named incorporators shall be held at the domicile, in this State, of said company, within six months from the passage of this act, which domicile shall be definitely located by the above named incorporators at their first meeting; and on designating the domicile of said company as aforesaid, the said company shall immediately report the same to the General Land Office of this State, under the seal of the company. A notice of said meeting shall be published for four successive weeks, in a newspaper published along the proposed line of said railroad. And ten miles of said railroad shall be completed and put in good running order within two years from and after the passage of this act, and twenty miles every year thereafter until completed, or this charter shall be forfeited as to the part not built.

Sec. 5. Be it further enacted, That at the first meeting of the said incorporators they shall elect a president, vice-president and secretary, and immediately open books for the subscription of the stock necessary for organization; upon taking which stock, ten per cent. of which shall be paid in, they shall elect a president, vice-president and thirteen directors; each share of stock, as aforesaid, being entitled to one vote; on which complete organization they shall as soon as practicable open books for subscription to the capital stock of said company.

Sec. 6. Be it further enacted, That all suits for said company shall be prosecuted in the name of the president of said corporation, and all notices and legal process shall be served on said officer, or in case of his death, absence, or resignation, upon the vice-president of said company. Annual meetings of the stockholders in said corporation,

for the choice of officers and the transaction of the business of the company, shall be held at the domicile of the company, at such time and upon such notice as may be prescribed by the by-laws.

Sec. 7. Be it further enacted, That the said South-Western and Rio Grande Railroad Company shall have the power to make such by-laws and regulations as may be deemed best for the proper management and government of said company, the same not to be inconsistent with the objects of this charter or the laws of the State. Each stockholder in the enactment of said by-laws shall be entitled to one vote for each share of stock held by him, and may vote in person or by written proxy. It shall further require a vote of the majority of the said stockholders to establish such by-laws.

Sec. 8. Be it further enacted, That the right of way is hereby granted to the said South-Western and Rio Grande Railroad Company and its successors for the construction of a railroad and telegraph, as proposed, and the right of way is granted to said company to the extent of one hundred feet in width on each side of said railroad, including all necessary grounds for workshops, switches, sidings, turn-tables, depots and water-tanks. That the said South-Western and Rio Grande Railroad Company is hereby authorized to enter upon, take and hold any lands or premises that may be necessary for the construction and working of said road not exceeding one hundred feet on each side of said road; and the said company shall have the right to cut and remove trees, drift and other material that might, by falling or drifting, encumber its road bed, although being or standing more than one hundred and fifty feet from the line of said road; and in case the owner of said land or premises and the said company cannot agree as to the value of said lands or premises so taken, or to be taken, for the use of said company, the value thereof shall be determined by the appraisal of three disinterested commissioners, who may be appointed upon application of either party by the district court of the county where the land lies; and said commissioners, in their assessment of damages, shall appraise such lands or premises at what would have been the value if the road had not been built; and upon return into court of such appraisement, and payment into the same of the estimated value for the benefit of the owner, said premises shall be deemed taken by said

company, which shall acquire full title to the same for the purposes aforesaid; and either party being aggrieved at such appraisement may, within thirty days after the same has been returned into said court, file an appeal therefrom and demand a jury of twelve men to estimate the damages sustained. Said appraisal shall not interfere with the rights of said company to enter upon said lands or premises or prevent the said company from continuing the construction of said road. The said party appealing shall give bonds, with sufficient surety or sureties, to be approved by the judge of said court, for any costs or damages that may arise on said appeal. And in case any of the lands or premises taken, or to be taken, as aforesaid, shall be held by any infant heirs or insane person, residing without the State of Texas, and not represented by any administrator or guardian, the said judge of said court may appoint a guardian or attorney ad hoc to appear in proper person in their behalf, who shall give bond for the faithful execution of his trust, who may represent in court the person or persons disqualified as aforesaid, when action in reference to the appraisement of the premises or lands taken, or to be taken, for the use of said company shall be had with the same effect as has already been described as to the final vestment of title as aforesaid.

Sec. 9. Be it further enacted, that the said South-Western and Rio Grande Railroad Company may issue their first mortgage bonds, to an amount not exceeding forty thousand dollars per mile, having not less than twenty years to run, which bonds shall be a first lien upon said road, and the property and equipments of the same; and shall bear not more than eight per cent. interest per annum, payable semi-annually, in gold, at such times and places as said company may determine; such bonds and mortgages shall be filed and recorded in the office of the recorder of mortgages and deeds in the county in which the domicile of the company is located.

Sec. 10. That this company shall have the right and the power to charge and collect such rates of freight and passage as the company may deem just and proper; provided, however, such charges do not exceed the rates as are now or may hereafter be established by law; provided, that the amount to be charged by said company for the carriage of freight and passengers shall be subject to be

regulated from time to time by the Legislature of the State of Texas.

Sec. 11. That said company shall be entitled to receive from the State of Texas a grant of sixteen sections of land for every mile of its road hereafter constructed under the provisions of this act, and put in good running order in this State; provided, the gauge of the road is four feet eight and a half inches, and twelve sections of land for every mile constructed, should the gauge of the road be three feet; and said company shall alienate the lands hereby granted and donated, except so far as may be necessary for the ordinary uses and operating said road as follows, to wit: one-fourth in eight years, one-fourth in twelve years, one-fourth in sixteen years, and the remaining one-fourth in twenty years, from the date of the location of the certificate, in such manner that the whole of such lands shall pass out of the hands of said company within twenty years after the date of their location; provided, that said lands shall not be alienated to any other railroad company or corporation, except so far as may be necessary for the proper use and conducting of the business of such company or corporation, nor shall said lands be alienated to any individual, firm or corporation in trust for said railroad company, or to any firm or company of which any officer or stockholder of said railroad company is a member; and a failure to comply with the provisions of this act and the general laws of the State on the subject, or a violation of the provisions of this act and such general laws, shall work a forfeiture of all the benefits of this act; provided, that the State of Texas shall not be liable for any deficiency in lands; provided further, that the gauge of said road shall not exceed four feet eight inches and a half, and not less than three feet in width.

Sec. 12. That whenever said company shall have completed and put in good running order, as provided in this act, ten miles or more of its road, they may give notice thereof to the Governor of the State, whose duty it shall be to appoint some skillful engineer (if there be no State engineer) to examine said completed road; and if upon the report of said engineer, under oath, it shall appear that said road has been constructed and equipped in a good and substantial manner, and in accordance with the provisions of the charter of the company, this act and the general laws in this State at the time regulating railroads, thereupon

it shall be the duty of the Commissioner of the General Land Office of the State to issue to said company certificates for six hundred and forty acres each, to the amount of sixteen sections per mile so completed and reported, which said certificates shall be located and surveyed in alternate sections, the field notes and maps returned to the general land office, and the odd sections patented to said company, and the even sections being reserved to the State for the school fund.

Sec. 13. That this charter shall remain in force for the period of ninety-nine years from the date of the passage of this act.

Sec. 14. That said road, if the line of same shall touch the limits of the county of Leon, shall establish a depot in one half mile of the public square of the town of Centreville, in said county of Leon.

Sec. 15. That this act take effect and be in force from and after its passage.

Approved May 1, 1874.

CHAPTER XXXVII.

An Act to grant Lands to the International Railroad Company, in lieu of Bonds, on a portion of its line of road.

Section 1. Be it enacted by the Legislature of the State of Texas, That so much of the International railroad as may be hereafter constructed west of the city of San Antonio, in the county of Bexar, to a point at or near the city of Laredo, in the county of Webb, on the Rio Grande river, in accordance with the provisions of its charter, passed August 5, A. D. 1870, the said company shall be entitled to have and receive from the State of Texas, twenty sections of land of six hundred and forty acres each, for each and every mile of said road constructed as aforesaid; provided, that the said company shall not be required to construct the road east of Jefferson, and the State shall be relieved from any obligation upon that part of the road; and provided further, that this act shall not be construed as an admission on the part of this Legislature, that said company are entitled to any subsidy from the State of Texas by reason of any act of a former Legislature.

Sec. 2. That on application of the president of said railroad company for the inspection of ten miles or more of said portion of said road, it shall be the duty of the Governor to cause such section to be inspected by the State engineer, or some competent person. The person so appointed to inspect the same shall make an examination thereof without delay, and on his report, in writing, under oath, that the same has been substantially built, it shall be the duty of the Commissioner of the Land Office to issue and deliver to the president of said company or any duly authorized agent thereof, twenty certificates, for six hundred and forty acres of land each, for each and every mile of said portion of said road so constructed, and in like manner for each additional section of ten miles or more as the same may be constructed; which said certificates may be located, surveyed, and patented on any of the unappropriated public domain of the State, in accordance with the laws relating to the appropriation of the public lands to railroad companies; provided, the State shall be in no wise liable for, or on account of any deficiency in the vacant public domain.

Sec. 3. That this act shall take effect and be in force from and after its passage.

Approved May 1, 1874.

CHAPTER XXXVIII.

An Act to authorize the Liberty Fire Company No. 2, of the City of Houston, to Raise, Provide for, and Administer a Charity Fund.

Section 1. Be it enacted by the Legislature of the State of Texas, That the said "Liberty Fire Company No. 2," shall have power and authority to raise, provide for, hold and administer a charity fund for the benefit of its members and other eleemosynary purposes; and to this end and purpose the said company may accept, receive, and take gifts, bequests and devises of money and other property for said charity fund, or upon special trusts for objects and purposes of like character.

Sec. 2. That all moneys and other property which have heretofore been appropriated and set apart to the relief fund, and which may hereafter, from time to time be

appropriated and set apart to said fund, together with five per centum of the interest and profits accruing therefrom, shall constitute a perpetual fund, which shall not be diverted or appropriated to any other use or purpose.

Sec. 3. That the said charity fund shall be managed and controlled, invested and reinvested, by three members of said company, who shall constitute a board of trustees. The said board shall be elected at some regular meeting, to be held within ninety days after the passage of this act.

Sec. 4. When a vacancy occurs in the board of trustees it shall be immediately filled by the remaining members of the board appointing another member of the company, and should the board of trustees fail to fill the vacancy before two regular meetings of the company shall have been held, it may then be filled by the company at a regular meeting from among its members.

Sec. 5. That the legal title to all money, property, and effects belonging to said charity fund, shall be held in the name of the trustees for the use of said company, and may be disposed of by them, or any two of them. Said trustees shall keep a record and account of all their transactions as trustees, and shall make semi-annually reports to the company at the regular monthly meetings, held in January and July. That the said trustees shall not, under any circumstances, be entitled to any commissions, compensation or emoluments, and in the administration and management of said fund, the said trustees shall exercise a sound discretion, and act as a reasonably prudent man would act in the management of his own business, and so acting they shall be liable for no loss that may happen.

Sec. 6. That this act shall take effect and be in force from and after its passage.

Approved May 2, 1874.

CHAPTER XXXIX.

An Act to amend the caption of an Act entitled "An Act to incorporate the Rockport, Fulton, Laredo and Mexican Pacific Railroad Company," approved March 11, 1871, and to change the name of said Railroad Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That the caption of an act entitled "An Act to

incorporate the Rockport, Fulton, Laredo and Mexican Pacific Railroad Company," approved March 11, 1871, be and the same is hereby amended so as to read as follows: "An Act to incorporate the Texas and Mexican Pacific Railroad Company."

Sec. 2. That the name of said railroad company shall hereafter be "The Texas and Mexican Pacific Railroad Company," and that all bonds issued by said company, and all proceedings by and against said company, shall hereafter be in the name of said company as changed and specified by this act.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved May 2, 1874.

CHAPTER XL.

An Act to incorporate the Caddo, Paris and Jefferson Branch of the Missouri Kansas and Texas Railroad Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That W. M. Harrison, W. L. Crawford and J. H. Bemis, of the city of Jefferson; Geo. Chambers, of Titus county; F. M. Smith, of Red River county; J. W. Broad, W. B. Wright, and J. W. Hardison, of the city of Paris; J. R. Barrett and W. D. Merrick, of Sedalia, Missouri; and Francis Skiddy, of New York, their associates, successors and assigns, be and are hereby constituted and appointed a body politic and corporate, under the name and style of the "Caddo, Paris and Jefferson Branch of the Missouri, Kansas and Texas Railway Company," and as such shall have succession for sixty years, and a common seal; shall have power to sue and be sued; to plead and be impleaded; receive grants, gifts and donations; buy, hold, sell and convey property, real, personal and mixed; make by-laws, rules and regulations for their general government, and generally to do all things and acts necessary to its interests and not unlawful.

Sec. 2. The persons named in the first section of this act shall constitute the first board of directors, and shall hold their office for one year, or until their successors have been elected and qualified; a majority of them shall be a

quorum, and their first meeting shall be held at such time and place as they may deem proper, and after a call published thirty days in two newspapers in the State, signed by a majority of said board, when they may organize for business, appoint time and place for opening subscription books, fix the number of shares and amount of each, the amount of per cent. to be paid in on each share; and when the whole stock has been subscribed and at least ten per cent. on the whole amount of stock paid in, call a meeting of the stockholders for permanent organization by thirty days' publication in two newspapers in the State of Texas, and such other newspapers outside of the State as may be directed by the board; and in said permanent organization the stockholders may make and adopt all the by-laws, rules and regulations deemed necessary for the general government of the company, which any future meeting of the stockholders may alter or amend as becomes necessary; may determine the number of permanent directors and their term of office; may provide for an executive committee of said board, and fix its powers, and such other things as they may deem necessary for the government of their company; and the seal of said company may be determined or altered by the directors, or the name of the company changed by them, and said company shall have the right to receive subscriptions to aid in the building of their said road, from individuals, corporations, cities, towns, or counties, in lands, bonds, notes, or other property, conditional or unconditional, as the company through its agents or the parties may agree, payable to the president of said company or his successors, and the right to enforce the payment of the same, or of any written agreement to subscribe for stock, by suit in the courts of the county, in the name of the president or any assignee of the company.

Sec. 3. That said company is hereby authorized and empowered to own, construct, maintain, equip, and operate a continuous line of railroad and telegraph, together with all the rights and appurtenances thereto belonging, or in any way incident or appertaining. Said railroad shall be built the most direct and practicable route between the terminal points, to-wit: the city of Jefferson in the county of Marion, to a point on Red River, in Lamar county, between the mouth of Bois D'Arc and the mouth of Sanders Creek, where the south branch of the Missouri, Kansas and

Texas railroad shall cross Red River, via Paris, Texas; provided, that in all cases where the located line of said road shall pass within four miles of any county seat, said company shall build to such town and maintain and operate a freight and passenger depot within one-half mile of the public square of such town. They may make such connections with any other road or roads as they may by agreement with them be able to do, and may make and construct any tap or branch of their road, not to exceed twenty-five miles in length; provided further, said company shall not consolidate with any other road in the State, except by and with the consent of the Legislature.

Sec. 4. Said company shall have the right of way over the lands of the State of Texas, on their line, and over any lands by whomsoever owned, subject to the general law of the State, governing such cases, for a width of two hundred feet, and the usual depots, turn-outs, machine shops, etc., and the usual rights of railroads to cross other roads, streams, etc., and shall commence the construction of their said road at any point on said line, which they may deem most advisable, within one year after said permanent organization of said company has been completed, and shall complete and put in running order twenty miles of said road within one year thereafter, and twenty-five miles each succeeding year, until said line is completed; and on failure to do so, said company shall forfeit all benefits under this charter, except upon completed road.

Sec. 5. The State of Texas hereby donates and grants to the said company out of any unlocated public domain of the State sixteen sections of land, of six hundred and forty acres each, for each and every mile of railroad constructed and put in substantial running order by them within the State; and whenever any section of ten miles of said road has been completed, the said company, through its president or secretary, may give notice of the same to the Governor of this State, in writing, whose duty it shall be, upon the receipt of such notice, to order the State engineer, if there be one, or if not, to appoint a skillful engineer to examine said section of said road, and report, under oath; and if said section of ten miles of said road be found to be constructed and in running order, in a substantial manner, then the Governor shall certify the same to the Commissioner of the General Land Office, and he shall issue to said company sixteen land certificates, of six hundred and forty

acres each, for each and every mile of road so constructed and put in running order, and in like manner with each and every succeeding section of ten miles of said road, until the whole has been completed; all the certificates issued as above to said company shall be located by them in alternate sections, that is to say, for every sixteen sections located by said company for its own use, said company shall locate also at the same time other sixteen sections of land for the State, and return the field notes and maps of the whole thirty-two sections to the Commissioner of the General Land Office, who shall number said sections so surveyed, and issue patents to said company for the sections numbered in odd numbers, reserving the even numbers for the school fund; and said company shall alienate their said lands acquired under the provisions of this act, except so much thereof as may be necessary for the uses and successful operation of their said road as follows; one fourth in eight years, one fourth in twelve years, one fourth in sixteen years, and one fourth in twenty years, from the date of the location of the same; and on failure to comply with the provisions of this section, or for violation of same, said company shall forfeit all benefits under this charter; provided, that the State shall in no case be liable for a deficiency of public domain, and no land certificate issued under the provisions of this act which may not be located because of the previous exhaustion of the public domain, shall ever constitute any claim against the State.

Sec. 6. Said company shall be subject to all general laws now in force, or that may hereafter be enacted in this State regulating railroad companies, both as to rates of freight and passage, as well as to the conduct of its officers and employees.

Sec. 7. Said company shall be liable to all the restrictions imposed on railroads by any general railroad law of this State, and shall be entitled to any of the benefits conferred by the same, and said road shall be of the uniform gauge of four feet eight and one-half inches.

Sec. 8. The Legislature shall have full authority to regulate the charges for freight and passengers on said railroad.

Sec. 9. That this act take effect and be in force from and after its passage.

Approved May 2, 1874.

CHAPTER XLI.

An Act to repeal an Act to incorporate the Town of Ysleta, in El Paso County, approved May 9, 1871.

Section 1. Be it enacted by the Legislature of the State of Texas, That "An Act to incorporate the town of Ysleta, in El Paso county," approved May 9, 1871, be and the same is hereby repealed.

Sec. 2. That this act take effect and be in force sixty days after its passage.

Approved May 2, 1874.

CHAPTER XLII.

An Act to amend the Title and Section one of an Act entitled "An Act to Incorporate the Bryan Real Estate and Building Association," approved May 25, 1871.

Section 1. Be it enacted by the Legislature of the State of Texas, That the title of an act entitled "An Act to incorporate the Bryan Real Estate and Building Association," approved May 25, 1871, be so amended as to read hereafter as follows: "An Act to incorporate the Bryan Real Estate and Fire Insurance Association."

Sec. 2. That section one of said act be so amended as to read as follows: "Section 1. That H. M. Moore, W. G. Bunger, C. F. Moore, Spencer Ford, S. D. Conger, Frank Clark, M. W. McCraw, C. W. Gardiner, W. H. Flippin, and T. T. Smothers, and their associates and successors, be and they are hereby created and established a body corporate and politic, under the name and style of the 'Bryan Real Estate and Fire Insurance Association,' with capacity in said corporate name to make contracts; to hold, buy and sell property, both real and personal; to contract and execute leases; to take grants and gifts; to execute deeds and mortgages and deeds of trust; to have succession and a common seal; to issue policies of fire insurance to any person or firm, and to receive therefor such rates of insurance as the association may direct; to appoint by power of attorney or otherwise such agents as they may desire to attend to the business of the associa-

tion, and in every act, perform, receive and discharge all the rights, privileges and immunities of a general fire insurance company under the laws of the State; to make by-laws for the government and regulation of its affairs; to sue and be sued; to plead and be impleaded; to declare dividends and make divisions of property; to loan its moneys to any person or persons, on any securities it may think proper, and to do and perform all such things as may be necessary and proper for and incident to the fulfillment of its obligations and maintenance of its rights under this act, and consistent with the laws of this State; provided, that nothing in this act shall be so construed as to authorize this corporation to use its moneys in any manner which it may not be lawful for any citizen of this State to do.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved May 2, 1874.

CHAPTER XLIII.

An Act to incorporate the Lake City Railway Company and to aid the Construction of the said Railway.

Section 1. Be it enacted by the Legislature of the State of Texas, That Wm. M. Harrison, W. Q. Bateman, L. A. Ellis, P. M. Graham, Julius Ney, M. Dopplemayer, Thos. B. Goyne, J. H. Bennis, and James Arbuckle, their associates and successors, are hereby created and established a body corporate and politic, under the name and title of "The Lake City Railway Company," and the said corporation is hereby invested with the right and power to contract and be contracted with; to sue and be sued; to plead and be impleaded; buy and sell real and personal property for the use of and connected with the construction and maintenance of the said railway, and to do and perform all such acts, and the adoption of by-laws, as may be necessary and proper to effect the objects of this incorporation, not inconsistent with the laws and Constitution of this State.

Sec. 2. That said corporation is hereby invested with the authority, right and power to locate, construct and

maintain a railway of such gauge as will conform to the gauge of the connected lines from without the State, from the city of Jefferson, in Marion county, to the east line of the State of Texas, so as to connect with any line of railway which may be constructed to connect said city with the Mississippi river.

Sec. 3. That the capital stock of said company may be in any amount that the stockholders thereof or a majority of the same may determine, not exceeding one million of dollars, to be divided in shares of one hundred dollars each.

Sec. 4. That the persons named in the first section of this act, or a majority of them and their associates, are hereby appointed commissioners to open books, and to receive subscriptions to the stock of said company; and whenever said company shall procure the subscription to said stock in the sum of fifty thousand dollars, and have five per cent. paid thereon, said stockholders may hold an election for a president, vice-president and five directors to manage and control the affairs of said company in accordance with this act, and such by-laws as the stockholders may adopt, which said officers shall hold their offices for the term of one [year] and until their successors are elected and qualified, unless removed as the said by-laws may direct.

Sec. 5. Before any such election for the officers of said company, notice by publication shall be given for not less than two weeks in a newspaper published in said city, and each share of stock, upon which all dues and installments have been paid, shall be entitled to one vote, either by the person of the owner or by proxy made in writing, signed by such owner. The president and vice-president shall be ex officio directors, and said officers and a majority of the directors shall form a quorum for the transaction of business, and may appoint a secretary, treasurer, and such other officers and agents as may by them be deemed necessary, and require from them such bonds with sureties as they may require for the faithful discharge of their respective duties.

Sec. 6. That the right of way is hereby granted to said company to the extent of two hundred feet in width, where the same may pass over any of the public domain, including all lands necessary for stations, work shops, switches, side tracks, turntables and water tanks, and

when the same shall pass through lands of private persons the right of way may be secured in accordance with the provisions of the laws of this State.

Sec. 7. The office or domicile of said company shall be located at said city of Jefferson, and suits may be prosecuted by the president or vice-president of said company, or maintained against said company by service on either of said officers.

Sec. 8. That said company shall construct said railroad to the said east line of this State within at least eighteen months from the time they may be able to effect a suitable connection with a railway that will complete a connection to the Mississippi river, or forfeit all rights under this charter.

Sec. 9. That said railway company shall be entitled to have and receive from the State of Texas sixteen sections of land containing six hundred and forty acres each, for each and every mile of constructed road. And when the Governor shall be informed that a section of ten miles or more of said railway shall have been completed, he shall at once appoint some competent person to inspect the same. The person so appointed shall without delay make an examination of the railway and make report w[h]ether or not the same has been constructed in accordance with the terms of this charter; and if said report shall be in the affirmation, the Governor shall immediately notify the Commissioner of the General Land Office, whose duty it shall be to issue and deliver to said company on demand sixteen certificates for land for six hundred and forty acres each for each and every mile of railroad so completed, which said certificates may be located and patented on any of the public domain of this State according to the general law on the principle of alternate sections; provided, the State shall not be in anywise liable for any deficiency in public domain.

Sec. 10. That the said railway company shall be authorized to establish such reasonable charges for passengers and freight as it may deem proper, not to exceed the rate established by the general law of the State; and the said railway company shall be subject to such general laws as now exist or that may hereafter be enacted relating to railroads.

Approved May 2, 1874.

CHAPTER XLIV.

An Act to incorporate the San Antonio Street Railway Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That J. H. Campman, H. B. Adams, Daniel Devine, E. D. L. Wicks, John Twohig, John Withers, and Peter Sheiner, of the city of San Antonio, county of Bexar, and their associates and successors, are hereby declared a body corporate and politic, under the name and style of the "San Antonio City Street Railway Company," by which name they may contract and be contracted with; sue to final judgment and be sued; plead and be impleaded; issue bonds and borrow money for the construction, equipment and maintenance of their road; buy and sell real and personal estate, and generally to do all acts necessary to carry out the objects and designs of said company.

Sec. 2. The legal domicile of said company shall be in the city of San Antonio.

Sec. 3. The object of said company is declared to be to build, equip, own and operate street railways in the streets of the city of San Antonio, and also, in such parts of Bexar county as may be continuations of said streets, or of said railroads; and this company, under this act, is authorized to build such roads on any street within the corporate limits of the city of San Antonio, as may hereafter be agreed upon by the mayor and aldermen of the city of San Antonio, and the said "San Antonio City Street Railway Company" with the right to use such motive power as may be agreed upon between this company and the city council of San Antonio.

Sec. 4. The capital stock of this company shall be two hundred thousand dollars, divided into shares of twenty-five dollars each; said shares shall be transferable on the books of the company in person or by attorney.

Sec. 5. Subscriptions for shares to the capital stock of this company shall be paid in such sums, and at such times, as may be agreed upon by the by-laws of said company. When any stockholder shall make default in the payment of the assessment of his stock, it shall be sold by the president of said company, after thirty days' public notice, published in some newspaper in the city of San Antonio, which sale shall be an absolute conveyance in fee simple of

such stock to its purchaser, he also paying the remaining installments which may be due.

Sec. 6. This company shall, at their first meeting, make by-laws for its government, not inconsistent with the constitution and laws of this State, or this act of incorporation. No by-laws shall take effect until approved by a majority of the stockholders.

Sec. 7. That the parties named in the first section of this act, or a majority of them, are hereby declared commissioners, whose duty it shall be, within twenty-four months after the passage of this act, to organize said company as may be determined by a majority of them. The stockholders shall elect a board of not less than five nor more than seven directors, who shall elect from their number a president; and they shall also elect such other officers as the by-laws may require.

Sec. 8. That all contracts made or entered into by and between the mayor and aldermen of the city of San Antonio and the said company, or any privileges or rights granted by the said mayor and aldermen of the city of San Antonio to the said company, shall be in all respects legal and binding on the aforesaid contracting parties.

Sec. 9. This charter shall remain in full force and effect for the period of fifty years.

Sec. 10. Be it further enacted, That all acts, laws, or parts of laws, ordinances or declarations conflicting with this act of incorporation be, and the same are hereby repealed; provided, that nothing herein contained shall annul or set aside any ordinances or laws of the city council of the city of San Antonio.

Sec. 11. That this act shall take effect from and after its passage.

Approved May 2, 1874.

CHAPTER XLV.

An Act amendatory of an act entitled "An Act to organize and incorporate the Marshall, Texas, and Mansfield, Louisiana, Railroad Company," approved April 27, 1871.

Section 1. Be it enacted by the Legislature of the State of Texas, That the third (3d) section of an act to organize

and incorporate the Marshall, Texas and Mansfield, Louisiana Railroad Company, approved April 27, 1871, shall read as follows, viz: Said company shall have the right to construct, and operate a first class single or double track railroad from Marshall, in Harrison county, to Elysian Fields, in said county, thence by the most practicable route to effect a connection with any railroad entering the State of Texas from the State of Louisiana, with the right to cross any other railroad track or tracks.

Sec. 2. The seventh (7th) section of said act shall read as follows, viz: Said company may begin the construction of said road at any point or points along their line that they may deem proper, and shall have completed and in running order the whole of said road within three years from and after the passage of this amendatory act; provided, that if said company shall fail to construct their road within the time above mentioned, they shall forfeit all rights and franchises conferred by this charter upon all of said route not then in actual operation; and provided further, that should such failure be caused by war, epidemic, floods or revolution, the time of their prevalence shall be excepted from the limitation above mentioned, and shall not work a forfeiture in any respect.

Sec. 3. That this act take effect from its passage.

Approved May 2, 1874.

CHAPTER XLVI.

An Act to incorporate the Rusk Transportation Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That H. W. Graber, S. B. Barron, George D. Neely, J. J. Mallard, F. W. Bonner, M. J. Whitman, John T. Wiggins, Sam. A. Willson, B. B. Cannon, C. C. Francis, John G. Slover, W. Y. Long, J. C. Francis, R. H. Guinn, A. Jackson, James E. Dillard, James H. Sartain, T. L. Phillio, John R. Newton, R. B. Reagan, John B. Reagan, W. L. Byrd, and such others as they may associate with them, are hereby created a body politic and corporate, under the name of the "Rusk Transportation Company," and by such name they may sue and be sued, make contracts, have and hold real and personal property by grant, donation or purchase, or sell, alienate, or trans-

fer the same; said corporation shall have succession for ninety-nine years, and a corporate seal.

Sec. 2. The said persons named in the first section of this act shall constitute the first board of directors; they shall have the right to elect a president, vice-president, and secretary, treasurer, and attorney, the other officers and agents of the company shall be appointed in such manner as the directors may ordain and establish; the directors shall have power to make by-laws, rules and regulations for their government, so as to carry out the intent of this act, and to appoint an executive committee and confer upon it such powers as they may see fit, not inconsistent with the laws of this State or the United States; to provide for the future election of officers, and to fix the place of the principal office of the company, and to change the same at pleasure; to provide for issuing of stock and the transfer of the same; to provide for the issuing of the bonds of the company, to mortgage and hypothecate the road bed, rolling stock, and all other property of said company, to raise funds to build or equip a transportation road as hereinafter described.

Sec. 3. That said company shall have the right to construct, own, and operate a first-class tram-railway, or horse car road of whatever gauge they may see proper, from any point on the "International and Great Northern railroad," in Cherokee county, by the most practicable route to the town of Rusk, in said Cherokee county; that said company shall have the right to connect their road with the International and Great Northern railroad, and to connect with and cross any intervening road chartered in this State.

Sec. 4. That said company shall have the right of way along their entire route, not to exceed two hundred feet in width, over all lands of the State, and the free use of rock, timber, gravel, and earth thereof, and the terms of the general laws of this State to procure the release of the right of way from the owners of lands along the route; and shall have the right to construct and operate a telegraph line along their entire route, and to build and construct bridges across all streams along their line; provided, that no right is given to obstruct navigation.

Sec. 5. That the capital stock of said company shall be five hundred thousand dollars, with the privilege of increasing it to one million, divided into shares of fifty dollars each.

Sec. 6. That said company shall have the whole line of said road completed in ten years from and after the passage of this act.

Sec. 7. That upon the completion by said company of a first-class tram-railway as provided for under the preceding section of this act, said company shall be entitled to have and receive a donation of eight sections of land, containing six hundred and forty (640) acres each, for each and every mile of said road, to be taken in alternate sections anywhere out of the public domain not otherwise appropriated; and it is hereby made the duty of the commissioner of the general land office to issue certificates for said land to the president of said company as soon as said road is completed and inspected, and when said certificates shall have been located, patents shall issue as in other cases.

Sec. 8. Said company shall have said lands surveyed and the field notes returned to the general land office at their own expense, and shall be required to alienate one-fourth of the same every five years.

Sec. 9. That this act take effect and be in force from and after its passage.

Approved May 2, 1874.

CHAPTER XLVII.

An Act to legalize the offspring of Julius Henry and Bertha Nathan.

Section 1. Be it enacted by the Legislature of the State of Texas, That the child born unto the said Julius Henry and the said Bertha Nathan be, and the same is hereby declared to be legitimate.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved May 2, 1874.

CHAPTER XLVIII.

An Act to amend an Act entitled "An Act to incorporate the Austin and Pacific Short Line Railroad Company," passed May 30, 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That an act entitled "An Act to incorporate the

Austin and Pacific Short Line Railroad Company," passed May 30, 1873, be and the same is hereby so amended as that section two of the same shall hereafter read as follows, to-wit: "Sec. 2. The persons named in the first section of this act shall constitute the first board of directors, and shall hold their office for one year, or until their successors have been elected and qualified; a majority of them shall be a quorum, and their first meeting shall be held at such time and place as they may deem proper, and after a call published thirty days in two newspapers in the State of Texas, signed by a majority of said board, when they may organize for business, appoint time and place for opening subscription books, fix the number of shares, and the amount of each, the amount of per cent. to be paid in on each share, and when the whole stock has been subscribed and the per centum paid in, call a meeting of the stockholders for permanent organization, by thirty days publication in three newspapers in the State of Texas, and the said organization of said company shall be completed within six months after the passage of this act; and in said permanent organization the stockholders may make and adopt all the by-laws, rules and regulations deemed necessary for the general government of the company, which any future meeting of stockholders may alter or amend as becomes necessary; may determine the number of permanent directors, and their term of office; may provide for an executive committee of said board, and fix its powers, and such other things as they deem necessary for the government of their company, and the seal of said company may be determined or altered by the directors, or the name of the company changed by them; and said company shall have the right to receive subscriptions to aid in the building of their said road, or its branches, hereinafter provided for, from individuals, corporations, cities, towns, or counties, in lands, bonds, notes or other property, conditional or unconditional, as the company through its agents or the parties may agree, payable to the president of said company or his successors; and the right to enforce the payment of the same, or of any written agreement to subscribe for stock, by suit in the courts of the county in the name of the president, or any assignee of the company."

Sec. 2. Be it further enacted, That section three of the above entitled act be and is hereby so amended as to read as follows, to-wit: "Sec. 3. Said company is hereby au-

thorized and empowered to own, construct, maintain, equip and operate a continuous line of railroad and telegraph, together with all the rights and appurtenances thereto belonging, or in any way incident or appertaining, commencing at the city of Austin, Texas, and running across the State of Texas to some point on the Texas Pacific Railroad between the ninety-ninth and the one hundred and seventh degrees of longitude, deemed most practicable by said company, after making its surveys. The said company is hereby further authorized and empowered, at any time they may deem it proper to do so, to extend their said line of railroad and telegraph beyond the city of Austin to Indianola by the most practicable route, in order to form a seaboard terminus for their said railroad. They may make such connections with any other road or roads as they may by agreement with them be able to do, and when they deem that the necessities of the country and the demands of trade require the same, may make and construct any tap or branch of their road, not to exceed fifty miles in length; and the capital stock of said company shall be two hundred thousand dollars, with authority to raise the same to fifteen millions dollars, and said company may issue and sell its mortgage bonds to any amount it may deem proper, not to exceed ten million dollars, and said railroad shall pass through the town of Brownwood, in Brown county.

Sec. 3. That this act shall take effect and be in force from and after its passage.

Approved May 2, 1874.

CHAPTER XLIX.

An Act to lease to the use of Travis county, certain land in the City of Austin, on which to erect a Courthouse and Jail, and to enable said county to build the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That the north half of block No. (123) one hundred and twenty-three, in the city of Austin, Travis county, Texas, be and the same is hereby leased for the term of ninety-nine years to said county of Travis, for public uses, on which to erect a courthouse and jail of not less value

than ninety thousand dollars; provided, said county of Travis shall not at any time, nor in any manner sell or otherwise dispose of said land; provided further, that said building shall be erected within five years from the passage of this act, or this grant shall become void; provided, Travis county shall be liable to suit, and all police laws and regulations, so far as paving side-walks and otherwise, so far as this property is concerned, in the same manner as citizens of the city of Austin are; provided further, that should the State hereafter at any time desire so to do, it shall have the right to annul said lease by paying to the said county of Travis the full value of all improvements on said lot.

Approved May 4, 1874.

CHAPTER L.

An Act to incorporate the "Orange and Bolivar Point Railroad Company," and aid in the construction of the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That Jerome Swinford, Alexander Gilmer, R. H. Smith, F. C. McReynolds, N. J. Moore, J. N. Vaughn,, James S. Grinnen, Isaac G. Williams, and Levi Jones, of the State of Texas, and W. F. Hollister and Alvin Burt, of the State of New York, and all such persons as shall or may be associated with them and their successors, are hereby created a body politic and corporate, in fact and in law; by the name of the "Orange and Bolivar Point Railroad Company," and by that name shall have perpetual succession, and shall be able to sue and be sued; plead and be impleaded; defend and be defended in all courts of law and equity, and make and have a common seal, and the same to alter at pleasure of the board of directors.

Sec. 2. That said company and corporation is authorized to lay out, construct, finish and maintain, operate and enjoy a continuous railroad and telegraph line with all appurtenances, namely: Beginning at the town of Orange, county of Orange, thence in a south-westerly direction, by the way of Sabine Pass, county of Jefferson, to Bolivar Point, in Galveston county.

Sec. 3. Be it further enacted, That the amount of stock to be subscribed, necessary to organization, shall not be

less than twenty-five thousand dollars, in shares of one hundred dollars each, of which amount of stock ten per cent. shall have been paid in. That the capital stock of said corporation shall not be less than one hundred thousand dollars, and shall not exceed three millions of dollars, unless by a majority of the stockholders, each share of stock being entitled to one vote, which capital stock shall be divided into shares of one hundred dollars each, and the payment on said shares of stock shall be made in such manner and upon such notice as may be made and provided by the board of directors; provided, that payments on said shares of stock shall not exceed twenty-five per cent. thereof at any one time, nor be made oftener than once every sixty days.

Sec. 4. Be it further enacted, That the first meeting of the above incorporators shall be held at the domicile, in this State, of said company within a year from the passage of this act; which domicile shall be definitely located by the above named incorporation at their first meeting; and on designating the domicile of said company as aforesaid, the said company shall immediately report the same to the General Land Office of this State, under the seal of the company. A notice of said meeting shall be published in a newspaper published along or on the proposed line of said road.

Sec. 5. Be it further enacted, That at the first meeting of the said incorporators, they shall elect a president, vice-president, and secretary, and immediately open books for the subscription of the stock necessary for organization; upon taking which stock, ten per cent of which shall be paid in, they shall elect a president, vice-president, and thirteen directors, each share of stock as aforesaid being entitled to one vote; on which complete organization they shall as soon as practicable, open books for subscription to the capital stock of said company.

Sec. 6. Be it further enacted, That all suits for said company shall be prosecuted in the name of the president of said corporation, and all notices and legal process shall be served on said officer, or in case of his death, absence, or resignation, upon the vice-president of said company. Annual meetings of the stockholders in said corporation, for the choice of officers and the transaction of the business of the company, shall be held at the domicile of the company at such times and upon such notice as may be prescribed by the by-laws.

Sec. 7. Be it further enacted, That the said Orange and Bolivar Point Railroad Company shall have the power to make such by-laws and regulations as may be deemed best for the proper management and government of said company, the same not to be inconsistent with the objects of this charter or the laws of the State; each stockholder in the enactment of said by-laws shall be entitled to one vote for each share of stock held by him, and may vote in person or by written proxy. It shall further require a vote of the majority of the said stockholders to establish such by-laws.

Sec. 8. Be it further enacted, That the right of way is hereby granted to the said Orange and Bolivar Point Railroad Company and its successors, for the construction of a railroad and telegraph as proposed; and the right of way is granted to said company to the extent of one hundred feet in width on each side of said railroad, including all necessary grounds for work shops, switches, sidings, turn-tables, depots and water-tanks. That the said Orange and Bolivar Point Railroad Company is hereby authorized to enter upon, take and hold any lands or premises that may be necessary for the construction and working of said road, not exceeding one hundred feet on each side of said road; and the said company shall have the right to cut and remove trees, drift and other material that might, by falling or drifting, encumber its road-bed, although being or standing more than one hundred and fifty feet from the line of said road, and in case the owner of said land or premises and the said company cannot agree as to the value of the said land or premises so taken, or to be taken for the use of said company, the value thereof shall be determined by the appraisal of three disinterested commissioners, who may be appointed upon application of either party, by the district court of the county where the land lies, and said commissioners, in their assessment of damages, shall appraise such lands or premises at what would have been the value if the road had not been built; and upon return into court of such appraisement and payment into the same of [of] the estimated value for the benefit of the owner, said premises shall be deemed taken by said company, which shall acquire full title to the same for the purpose aforesaid; and either party being aggrieved at such appraisement, may, within thirty days after the same has been returned into said court, file an appeal

therefrom, and demand a jury of twelve men to estimate the damages sustained. Said appraisal shall not interfere with the rights of said company to enter upon said lands or premises, or prevent the said company from continuing the construction of said road. The said party appealing shall give bond with sufficient surety or sureties, to be approved by the judge of said court, for any costs or damages that may arise on said appeal; and in case any of the lands or premises taken, or to be taken as aforesaid, shall be held by any infant heirs or insane person residing without the State of Texas, and not represented by any administrator or guardian, the said judge of said court may appoint a guardian or attorney ad hoc. to appear in proper person in their behalf, who shall give bond for the faithful execution of his trust, who may represent in court the person or persons disqualified as aforesaid when action in reference to the appraisement of the premises or land taken, or to be taken for the use of said company, shall be had with the same effect as has already been described as to the final vestment of title as aforesaid.

Sec. 9. Be it further enacted, That the said Orange and Bolivar Point Railroad Company may issue their first mortgage bonds to an amount not exceeding forty thousand dollars per mile, having not less than twenty years to run, which bonds shall be a first lien upon said road, and the property and equipments of the same, and shall bear not more than eight per cent. interest per annum, payable semi-annually, in gold, at such times and places as said company may determine. Such bonds and mortgages shall be filed and recorded in the office of recorder of mortgages and deeds, in the county in which the domicile of the company is located.

Sec. 10. That this company shall have the right and the power to charge and collect such rates of freight and passage as the company may deem just and proper; provided, however, such charges do not exceed the rates as are now, or may hereafter be established by law.

Sec. 11. That said company shall be entitled to receive from the State of Texas a grant of sixteen sections of land for every mile of its road hereafter constructed under the provisions of this act, and put in good running order in this State; and said company shall alienate the lands hereby granted and donated, except so far as may be necessary for the ordinary uses and operating said road, as fol-

lows, viz: one-fourth in eight years, one-fourth in twelve years, one-fourth in sixteen years, and the remaining one-fourth in twenty years from the date of the location of the certificates, in such manner that the whole of such lands shall pass out of the hands of said company within twenty years after the date of their location; provided, that said lands shall not be alienated to any other railroad company or corporation, except so far as may be necessary for the proper use and conducting of the business of such company or corporation, nor shall said lands be alienated to any individual, firm or corporation in trust for said railroad company, or to any firm or company, of which any officer or stockholder of said railroad company is a member; and a failure to comply with the provisions of this act and the general laws of the State on the subject, or a violation of the provisions of this act and such general laws, shall work a forfeiture of all benefits of this act; provided, that the State of Texas shall not be liable for any deficiency in lands; provided further, the gauge of said road shall not exceed four feet eight inches and a half, and not less than three feet in width.

Sec. 12. That whenever said company shall have completed and put in good running order, as provided in this act, ten miles or more of its road, they may give notice thereof to the Governor of the State, whose duty it shall be to appoint some skillful engineer (if there be no State Engineer) to examine said completed road, and if, upon the report of said engineer under oath, it shall appear that said road has been constructed and equipped in a good and substantial manner, and in accordance with the provisions of the charter of the company, this act, and the general laws in the State at the time regulating railroads, thereupon it shall be the duty of the Commissioner of the General Land Office of the State to issue to said company certificates of six hundred and forty acres each to the amount of sixteen sections per mile so completed and reported, which said certificates shall be located and surveyed in alternate sections, the field notes and maps returned to the General Land Office, and the odd sections patented to said company, and the even sections being reserved to the State for the school fund.

Sec. 13. That this charter shall remain in force for the period of ninety-nine years from the date of the passage of this act; provided, that if the gauge of [of] said road

be less than four feet eight and one-half inches, then it shall be entitled to receive certificates for twelve sections of land for each mile; and provided further, that the State shall not be held liable for any deficiency of the public domain upon which to locate said certificates.

Sec. 14. That this act shall take effect and be in force from and after its passage.

Approved May 4, 1874.

CHAPTER LI.

An Act supplemental to an Act entitled "An Act to incorporate the Orange and Bolivar Point Railroad Company, and aid in the Construction of the same," passed at the First Session of the Fourteenth Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That the before named Orange and Bolivar Point Railroad Company shall finish and complete at least twenty-five miles of said road within three years, and twenty-five miles each succeeding year, until the whole of said road is completed, otherwise its rights granted in said act shall be forfeited.

Sec. 2. That this act take effect from and after its passage.

Approved May 4, 1874.

THE STATE OF TEXAS, }
Department of State. }

I, A. W. DeBerry, Secretary of State for the State of Texas, certify that the acts contained in this volume are true copies taken from the originals in the Department of State, with which they have been carefully compared. And I further certify that the first session of the Fourteenth Legislature of said State commenced at the city of Austin on Tuesday, the thirteenth day of January, A. D. one thousand eight hundred and seventy-four, and adjourned on the fourth day of May, A. D. one thousand eight hundred and seventy-four.

In testimony whereof, I have hereunto signed my name, and caused the seal of the Department of State to
[Seal.] be affixed, at the city of Austin, this the twenty-fifth day of July, A. D. one thousand eight hundred and seventy-four.

A. W. DEBERRY,
Secretary of State.

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GENERAL LAWS
OF
THE STATE OF TEXAS

PASSED AT THE
SECOND SESSION OF THE FOURTEENTH
LEGISLATURE

BEGUN AND HELD
AT THE CITY OF AUSTIN

JANUARY 12, 1875

[BY AUTHORITY]

HOUSTON
1875

GENERAL LAWS OF TEXAS

CHAPTER I.

An Act making an appropriation for mileage and per diem pay of the Members, and the per diem pay of the officers and employees of the Fourteenth Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of eighty thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any moneys in the Treasury not otherwise appropriated, for the mileage and per diem pay of the members, officers and employees of the Fourteenth Legislature of the State of Texas.

Sec. 2. That the certificate of the Secretary of the Senate, approved by the President thereof, or the certificate of the Chief Clerk of the House, approved by the Speaker thereof, shall be sufficient evidence to the Comptroller, upon which he shall audit the claims and issue his warrant upon the Treasurer for the respective amounts.

Sec. 3. That the balance of moneys remaining in the Treasury heretofore appropriated for the per diem pay of the members, officers and employees of any preceding session of the Legislature of the State of Texas, be and the same is hereby re-appropriated for the purposes specified in this act.

Sec. 4. That this act take effect from and after its passage.

Approved January 19th, 1875.

CHAPTER II.

An Act to create the county of Crockett, and to establish the boundaries thereof.

Section 1. Be it enacted by the Legislature of the State of Texas, That a new county shall be and is hereby created out of that portion of Bexar territory lying south of a line drawn due west from the southwest corner of Concho county to the Pecos river, which is the southern boundary of the county of Tom Green, and that said county shall be named and called the county of Crockett, in honor of Col. David Crockett, who fell fighting in defense of the liberties of Texas at the Alamo, on the sixth of March, one thousand eight hundred and thirty-six.

Sec. 2. The boundaries of Crockett county shall be established as follows: Beginning at the southwest corner of Concho county; thence due west with the southern boundary of the county of Tom Green to the Pecos river; thence down the middle of the Pecos river to its junction with the Rio Grande; thence down the middle of the Rio Grande with the line between this State and the Republic of Mexico to the mouth of the San Pedro river; thence up the middle of said river with its meanderings to the northwest corner of Kinney county; thence due east with the north line of Kinney county to the southwest corner of Edwards county; thence due north with the west line of Edwards, Kimball and Menard counties to the southwest corner of Concho county, the place of beginning.

Sec. 3. That this act shall be in force from and after its passage.

Approved January 22d, 1875.

CHAPTER III.

An Act to authorize the Secretary of State to employ an additional clerk or clerks, and to make an appropriation to pay the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Secretary of State be, and he is hereby authorized to employ an additional clerk or clerks during the present session of the Legislature, and until the laws of

this session shall have been copied, for the purpose of copying said laws.

Sec. 2. That the sum of two hundred and fifty dollars, or so much thereof as may be necessary, be and the same is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay the fees of said clerk or clerks.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved January 25th, 1875.

CHAPTER IV.

An Act to amend "An Act to create the county of Waller," passed April 28th, 1873, and to better define the boundary between Grimes and Waller counties.

Section 1. Be it enacted by the Legislature of the State of Texas, That section one of an act entitled "An Act to create the county of Waller," passed April 28th, 1873, be so amended as to read as follows: That all that territory comprised within the following limits, to-wit: beginning at the mouth of Beason's creek, on the Brazos river; thence in a direct line north eighty-seven degrees east to the western boundary line of Montgomery county, thirty-one thousand nine hundred and thirty-nine varas, where the said Montgomery county line crosses Mill creek, at a point north three degrees forty-six minutes east eight hundred and eighty-two varas from the southeast corner of the Robert O. Lusk survey, on the west line of the Robert Watson survey, which corner is also the northeast corner of the one hundred and sixty acre survey now occupied by William Rogerson as a homestead, a linn tree marked with the letter "G," a pine marked "M," an elm marked "W," and a box-alder marked "G," and a box-alder "W;" thence south with said boundary line to the corner of Montgomery county on Spring creek; thence running in the bed of Spring creek, with the Grimes and Harris county lines, to the corner of Grimes, Austin and Harris counties; thence running with Harris and Austin county line to the corner of Fort Bend, Harris and Austin counties; thence with the boundary line of Fort Bend and

Austin county line to the Brazos river; thence up said river with its various meanderings to the place of beginning, be, and the same is hereby created a county to be called the county of Waller, and the city of Hempstead is hereby declared the county seat of said county.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved January 25th, 1875.

CHAPTER V.

An Act to provide for the disposal of certain lands belonging to the State of Texas, known as the Indian Reservations.

Whereas, Under the provisions of acts of the Legislature of the State of Texas, approved February 6, 1854, and February 4, 1856, jurisdiction over certain portions of the public domain of the State of Texas was ceded to the United States Government, and said land was set apart and appropriated for the use of the several tribes of Indians residing within the limits of the State of Texas; and

Whereas, Said acts further provided, that whenever the land, or any district thereof, selected or purchased as therein provided, shall cease to be used for Indian purposes, the jurisdiction therein ceded shall cease, and such portion of said land as shall be taken from the public domain of the State shall revert, together with all and singular the improvements made thereon, to this State, to be disposed of in such manner as the Legislature may thereafter see proper; and

Whereas, Said land selected by the United States Government, under the provisions of above recited acts has long been abandoned by said government as a reservation for Indians, and is now, and for some time past has been occupied and improved solely by actual settlers, many of whom were under the belief that said land was public domain of the State, and open to settlement under the existing laws of this State regulating homesteads; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That all that portion of land in the State of Texas heretofore set apart and appropriated for the use of the several tribes of Indians residing within the limits of

the State, as recited in above preamble, be and the same is hereby declared abandoned by the United States Government and reverted back to this State

Sec. 2. That all persons who are now actual settlers on said "Reservations," shall have the right to claim a homestead of one hundred and sixty acres, if the head of a family, or eighty acres, if a single person of not less than twenty-one years of age, of the land so settled upon, subject to the provisions of this act, and the restrictions and conditions as now or hereafter may be provided by the laws of this State not conflicting herewith; provided, said actual settler, within six months after this act take effect, shall make application to the surveyor of the county, in which said land is situated, to have his claim surveyed, and shall pay the regular fees allowed by law for making such surveys. Said actual settler, or his assignee or assignees, at the expiration of three years from the date of his actual settlement on said land, shall be entitled to a patent therefor, upon filing in the General Land Office an affidavit to the effect, that such person, or his assigns, has occupied and improved said land for three years, in good faith, and has complied with all requirements of law, and paid all fees, which affidavit shall be corroborated by the affidavits of two disinterested and credible citizens of the county in which the land is situated, all of which affidavits shall be subscribed and sworn to before the district clerk, who shall certify to same, and the credibility of said citizens, under the seal of his office.

Sec. 3. That all lands in said "Reservations" remaining unsettled at the passage of this act, shall be and the same is hereby appropriated and set apart, one-half to the "public school fund" of this State, and the remaining one-half to settlement by actual settlers, subject to the provisions of this act, and of all laws not in conflict therewith.

Sec. 4. It shall be the duty of the surveyor of the counties in which said "Reservations" are situated, to have all of said land now occupied and claimed by actual settlers thereon, correctly surveyed, and the field notes thereof recorded in his office, according to law and instructions issued by the General Land Office, prescribing the duties of surveyors, for which service he shall be paid by the settler the regular fees allowed by law. He shall also prepare a map of all land contained within said "Reservations," on which map he shall first lay off and plat all land

claimed as homesteads by actual settlers, under provisions of section 2 of this act; and the balance of land in said "Reservations" remaining unsettled, he shall lay off and plat on said map, in quarter sections, of one hundred and sixty acres each, which he shall number consecutively, commencing with No. 1, in similar manner to that now prescribed by law for the numbering of sections, located by virtue of railroad certificates, which have alternate sections reserved for the public school lands of this State, that is to say, the numbers of each quarter section of all the land thus appropriated and set apart, shall alternate uniformly throughout, so that no two even or two odd numbered quarter sections shall be side by side, but shall be diagonal to each other. Said even-numbered quarter sections shall be reserved by the State for public school lands, and the odd numbered quarter sections shall be open to settlement by actual settlers as hereinafter provided. Said map, together with the field notes of surveys made of all lands now occupied and claimed as homesteads by actual settlers thereon, shall be completed, filed and recorded in said surveyor's office, within twelve months after the passage of this act, and a duplicate copy of said map and the said field notes shall be forwarded to the General Land Office within the same prescribed time.

Sec. 5. That in all cases where actual settlers now occupying lands within said "Reservations" have allowed a vacancy of less than forty acres of said land to intervene between their respective claims, they shall change the boundary lines of their claims, so that each settler shall take an equal portion of such intervening vacant land, in order to have their claims adjoin each other; and it shall be the duty of the surveyor of the county in which such land is situated to enforce this provision.

Sec. 6. That every head of a family, without a homestead, who may hereafter desire to settle on any land within said "Reservation," shall be entitled to select one hundred and sixty acres of said land wholly within one of the unsettled quarter sections having odd numbers, and every single person of not less than twenty-one years of age, shall be entitled to select eighty acres of any one quarter section unsettled, which shall be divided by the surveyor in two equal parts, and the choice of either part given to said claimant. Before entering on the land so selected, every claimant shall first make application to said surveyor to

have such land surveyed, and thereupon it shall be the duty of said surveyor to survey the land thus selected, together with the alternate quarter section adjoining, reserved for the "Public School Fund" of this State, and make out field notes thereof which he shall certify as being correct, record them in his office, and forward same together with all other necessary papers connected with such application, to the General Land Office, for which service he shall be paid by the person making such application, the regular fees allowed by law, including the fees for surveying the alternate quarter section for the State; provided, that if the person making such application be single, and shall make the first selection of one-half of any such quarter section, he shall pay only the fees allowed by law for surveying one-half of said quarter section, together with the fees due by law for surveying the whole of the alternate quarter section for the State attached thereto; and any settler desiring to settle on the remaining one-half of said quarter section thus left vacant, before being allowed to enter upon same, shall be required to pay the fees for surveying said remaining one-half of said quarter section, and shall refund to the person who made a first selection out of same quarter section one-half of the amount which said person making such first selection paid for the survey of the alternate quarter section for the State connected therewith. In no case shall any applicant claiming a homestead by virtue of three years residence thereon and compliance with all the requirements of law be required to pay anything for the land, or any other fees than the fees herein allowed and due by law in the surveyor's office and in the General Land Office.

Sec. 7. That all laws and parts of laws so far as they contravene the provisions of this act be and the same are hereby repealed, and that this act shall take effect and be in force sixty days from and after its passage; and nothing in this act shall be so construed as to prejudice the rights of third parties.

Approved January 25th, 1875.

CHAPTER VI.

An Act to amend an act entitled "An Act to organize the Seventh, Eighth and Eleventh Judicial Districts of the State of Texas, and to fix the times for holding the courts therein," approved April 17th, A. D. 1874.

Section 1. Be it enacted by the Legislature of the State of Texas, That section four, of the above entitled act be so amended as to hereafter read as follows, to-wit: Section 4, That the District Courts of the Eleventh Judicial District shall be holden at the times hereinafter specified, to-wit: In the county of Delta on the second Mondays in January, May and September, and may continue in session two weeks; in the county of Hopkins on the first Mondays in February, June and October, and may continue in session four weeks; in the county of Hunt on the first Mondays in March, July and November, and may continue in session four weeks; in the county of Collin on the first Mondays in April, August and December, and may continue in session five weeks, or until the business of the term is disposed of.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved January 25th, 1875.

CHAPTER VII.

An Act making an appropriation to defray the Contingent Expenses of the Second Session of the Fourteenth Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of fifteen thousand dollars, or so much thereof as may be necessary, be and is hereby appropriated, out of any money in the State Treasury not otherwise appropriated, to pay the contingent expenses of the second session of the Fourteenth Legislature, and that the certificate of the Secretary of the Senate and the chief clerk of the House of Representatives to the correctness of, and the approval of the chairman of the Committee on Printing and Contingent Expenses, of the Senate and House of Representatives to the respective accounts against

the two Houses shall be sufficient authority for the Comptroller to draw his warrant upon the Treasurer for the several amounts charged against said fund.

Sec. 2. That this act take effect from and after its passage.

[Note.—The foregoing bill was presented to the Governor of Texas for his approval on the twentieth day of January, A. D. 1875, and was neither signed by him, nor returned to the house in which it originated with his objections thereto, within the time prescribed by the constitution, and thereupon became a law without his signature.—A. W. DeBerry, Secretary of State.]

CHAPTER VIII.

An Act making an appropriation to pay F. Voigt, custodian of the Public Halls of the Capitol, the Public Library, Capitol Grounds, and State Cemetery.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of sixteen hundred dollars, or so much thereof as may be necessary, be and the same is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay the salary of F. Voigt, custodian of the Public Halls of the Capitol, the Public Library, Capitol Grounds, and State Cemetery, from May 5th, 1874, to August 31st, 1875.

Sec. 2. That the amount shall be paid under the same rules and regulations that govern the pay of clerks in the various departments. That the Comptroller is hereby authorized to draw his warrant on the Treasurer of the State of Texas for the money herein appropriated, upon the presentation of vouchers approved by the Governor of the State.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved January 28th, 1875.

CHAPTER IX.

An Act to amend "An Act to amend the tenth section of an Act entitled 'An Act prescribing the times of holding the District Courts in the several Judicial Districts in the State,' " approved August 10th, 1870. Approved April 29th, 1874.

Section 1. Be it enacted by the Legislature of the State of Texas, That the tenth section of the above recited act shall be so amended as to hereafter read as follows: "Section 10, That the District Courts of the Ninth Judicial District shall be holden at the times hereinafter specified, to-wit: In the county of Gregg on the Second Mondays in January, May and September, and may continue in session two weeks; in the county of Upshur on the first Mondays in February, June and October, and may continue in session three weeks; in the county of Wood on the fourth Mondays in February, June and October, and may continue in session three weeks; in the county of Rains on the third Mondays in March, July and November, and may continue in session two weeks; in the county of Camp on the second Mondays in April, August and December, and may continue in session two weeks."

Sec. 2. That all process issued and returnable to terms of court as held heretofore in said counties shall be returnable to the terms herein prescribed, and all bail and delivery bonds and recognizance heretofore given for appearances to the terms aforesaid, are hereby rendered as valid and binding upon the obligors therein, as if the same were conditioned in accordance with the terms herein prescribed.

Sec. 3. That all laws in conflict with the provisions of this act are hereby repealed, and that this act take effect from and after its passage.

Approved January 28th, 1875.

CHAPTER X.

An Act to repeal an act entitled "An Act to release certain taxes to the residents of the counties of Montague, Wise, Parker, Hood, Erath, Hamilton, Lam-

pasas, Burnett, Blanco, Kendall, Bandera, Medina, Frio, McMullen, Duval, Starr, and all the counties lying west and southwest of the same; passed April 30th, 1873."

Section 1. Be it enacted by the Legislature of the State of Texas, That an act entitled "An Act to release certain taxes to the residents of the counties of Montague, Wise, Parker, Hood, Erath, Hamilton, Lampasas, Burnett, Blanco, Kendall, Bandera, Medina, Frio, McMullen, Duval, Starr, and all counties lying west and southwest of the same," passed April 30th, 1873, be, and the same is hereby repealed.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved February 2d, 1875.

CHAPTER XI.

An Act supplemental to "An Act to create and provide for the organization of Tom Green county," approved March 13th, 1874.

Section 1. Be it enacted by the Legislature of the State of Texas, That the commissioners or any one of them named in the "Act to create and provide for the organization of Tom Green county," approved March 13th, 1874, may administer all oaths of office to the officers elected under said act, and a majority of said commissioners may issue certificates of election to such officers, and may approve the bonds of such officers, which bonds shall be conditioned as the law directs; and the said commissioners shall forward to the State Department a certified list of said officers.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved February 3d, 1875.

CHAPTER XII.

An Act to amend "An Act to adopt and establish a Penal Code for the State of Texas," approved August 28th, 1856.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Penal Code of the State of Texas,

be and the same is hereby amended by inserting therein the following additional article, to-wit: Article 235a. Within the term "misapplication of public money," are included the following acts: first, the use of any public money in the hands of any officer of the government for any purpose whatsoever, save that of transmitting or transporting the same to the seat of government and its payment into the treasury; second, the exchange by any officer of one character of public funds in his hands for those of another character; the purchase of bank checks in exchange for transmissal to the treasury is not included in this class; third, the deposit by any officer of the government of public moneys in his hands at any other place than the treasury of the State, when the treasury is accessible and open for business, or permitting the same to remain on deposit at such forbidden place after the treasury is so open; fourth, the purchase of State warrants, or other evidences of State indebtedness, by any officer of the government with public moneys in his hands; fifth, the special enumeration of cases of misapplication above set forth, shall not be understood to exclude any case which by full construction of the language comes within the meaning of the preceding article.

Sec. 2. Be it further enacted, That Article 236 of said Penal Code be so amended as hereafter to read as follows: "Article 236. If any person shall knowingly and with fraudulent intention receive or conceal any public money which has been taken, converted or misapplied by any officer or employee as set forth in the two preceding articles, he shall be punished by confinement in the penitentiary for a term not less than two nor more than five years."

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved February 6th, 1875.

CHAPTER XIII.

An Act making an appropriation for the purpose of paying an oculist for treating inmates of the Institute for the Blind.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of one thousand dollars, or so much thereof as may be necessary, be and the same is

hereby appropriated, out of any money in the treasury not otherwise appropriated, for the purpose of paying an oculist for his services in treating certain inmates of the Institution for the Blind.

Sec. 2. That it is hereby made the duty of the Governor to enter into contract with an experienced and competent oculist for the treatment of all cases of blindness deemed curable by operation, of those who are now or may hereafter become inmates of the Asylum for the Blind.

Sec. 3. That the account for such service, made out in due form, and approved by the Governor, shall be sufficient evidence, and upon presentation of the same to the Comptroller, he shall audit the account, and draw his warrant upon the Treasurer for the amount.

Sec. 4. That this act shall take effect and be in force from and after its passage.

Approved February 6th, 1875.

CHAPTER XIV.

An Act to amend an act entitled "An Act to amend section one of an act entitled 'An Act to amend the thirty-fourth and thirty-sixth sections of an act prescribing the times of holding the District Courts in the several Judicial Districts in the State,' " approved August 10th, 1870. Approved February 6th, 1871. Approved May 31st, 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That section one of an act entitled "An Act to amend section one of an act entitled 'An Act to amend the thirty-fourth and thirty-sixth sections of an act entitled 'An Act prescribing the times of holding the District Courts in the several Judicial Districts in the State,' " approved August 10th, 1870; approved February 6th, 1871; approved May 31st, 1873, be so amended as hereafter to read as follows: That section thirty-four of an act entitled "An Act prescribing the times of holding the District Courts in the several Judicial Districts in the State," approved August 10th, 1870, be so amended as that hereafter the terms of holding the District Courts in the Thirty-third Judicial District shall be as follows, to-wit: In the county of Limestone on the second Mondays in February, June and October, and may continue in session three weeks; in

the county of Falls on the fourth Monday after the second Monday in February, and on the sixth Monday after the second Monday in June, and on the fourth Monday after the second Monday in October, and may continue in session four weeks, except said term commencing on the sixth Monday after the second Monday in June, which shall continue in session only one week; in the county of McLennan on the eighth Monday after the second Monday in February, June and October, and may continue in session until the business of the court is disposed of, except said term commencing on the eighth Monday after the second Monday in June, which shall continue in session only one week.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved February 6th, 1875.

CHAPTER XV.

An Act prescribing the times of holding the District Courts in the Sixth Judicial District of the State, and repealing all laws in relation thereto.

Section 1. Be it enacted by the Legislature of the State of Texas, That the District Courts of the Sixth Judicial District, shall be holden at the times hereinafter specified, to-wit: In the county of Rusk on the first Mondays in December, April and August, and may continue in session six weeks; in the county of Harrison on the third Mondays in January, May and September, and may continue in session eight weeks.

Sec. 2. That all process that has or may be returnable to the District Courts of Rusk and Harrison counties, previous to the first terms of said courts held under the provisions of this act, shall be deemed and held returnable to said terms.

Sec. 3. That all laws and parts of laws conflicting with this act be and the same are hereby repealed, and this act take effect and be in force from and after its passage.

Approved February 6th, 1875.

CHAPTER XVI.

An Act making an appropriation to complete the buildings and enclosures of the Agricultural and Mechanical College of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of thirty-two thousand dollars be and the same is hereby appropriated, out of any money not otherwise appropriated in the State Treasury, for the purpose of completing the necessary buildings and enclosures for the use of the Agricultural and Mechanical College of Texas.

Sec. 2. That the requisition of the Commissioners of said college, accompanied with the vouchers for which it is made, shall be sufficient to authorize the Comptroller to draw his warrant on the Treasurer for the same.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved February 8th, 1875.

CHAPTER XVII.

An Act regulating the times of holding the District Courts in the Twenty-fourth Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas, That the terms of the District Court for the Twenty-fourth Judicial District shall hereafter be held as follows, to-wit: In the county of Maverick on the first Mondays in January, May and September, and may continue in session for one week; in the county of Kinney on the second Mondays in January, May and September, and may continue in session for one week; in the county of Uvalde on the third Mondays in January, May and September, and may continue in session two weeks; in the county of Frio on the fourth Monday after the first Mondays in January, May and September, and may continue in session one week; in the county of Atascosa on the fifth Monday after the first Mondays in January, May and September, and may continue in session two weeks; in the county of Medina on the seventh Monday after the first Mondays in January, May and September, and may con-

tinue in session for two weeks; in the county of Bandera on the ninth Monday after the first Mondays in January, May and September, and may continue in session for one week.

Sec. 2. That for judicial purposes the unorganized county of Dimmit shall be attached to Maverick, and the unorganized county of Zavalla shall be attached to the county of Frio.

Sec. 3. That all writs heretofore issued and returnable to terms as fixed by act, approved May 2, A. D. 1874, entitled An Act to regulate times of holding the courts in the Twenty-fourth Judicial District, are hereby made returnable to the courts whence issued at the times for holding courts as herein fixed, and all recognizances and bail bonds for the appearance of defendants and witnesses, at the times in said act, fixed for holding the terms of said court, shall be held to bind the parties thereby bounden to appear, to appear thereunder to the times herein fixed for holding said court.

Sec. 4. That this act take effect and be in force from and after the first day of March, A. D. 1875.

Approved February 8th, 1875.

CHAPTER XVIII.

An Act to attach the county of Crockett to the county of Kinney for judicial purposes.

Section 1. Be it enacted by the Legislature of the State of Texas, That the county of Crockett be attached to the county of Kinney for judicial purposes.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved February 10th, 1875.

CHAPTER XIX.

An Act to reorganize the Fourth and Fifth Judicial Districts of the State of Texas, and to provide for the time of holding the courts therein.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Fourth Judicial District shall

hereafter be composed of the following named counties, to-wit: Nacogdoches, Angelina, Cherokee, and Houston.

Sec. 2. That the Fifth Judicial District shall hereafter be composed of the following named counties, to-wit: Panola, Shelby, San Augustine and Sabine.

Sec. 3. That the District Courts of the said Fourth Judicial District shall hereafter commence and be holden in the said counties, to-wit: In the county of Nacogdoches on the second Monday in December, and may continue in session four weeks; on the fourth Monday in May, and may continue in session four weeks; on the third Monday in October, and may continue in session one week; in the county Angelina on the second Monday in January, and may continue in session two weeks; on the fourth Monday in June, and may continue in session two weeks; on the fourth Monday in October, and may continue in session one week; in the county of Cherokee on the fourth Monday in January, and may continue in session five weeks; on the second Monday in July, and may continue in session five weeks; on the first Monday in November, and may continue in session one week; in the county of Houston on the first Monday in March, and may continue in session seven weeks; on the first Monday in September, and may continue in session seven weeks; on the second Monday in November, and may continue in session one week.

Sec. 4. That the District Courts of the Fifth Judicial District shall hereafter commence and be holden, in the said counties as follows, to-wit; In the county of Panola on the first Mondays in February, June and October, and may continue in session four weeks; in the county of Shelby on the first Mondays in March, July and November, and may continue in session three weeks; in the county of San Augustine on the fourth Mondays in March, July and November, and may continue in session two weeks; in the county of Sabine on the fifth Monday after the first Mondays in March, July and November, and may continue in session two weeks.

Sec. 5. That all process heretofore issued or hereafter to be issued shall be returnable to the said District Courts of the several counties at the times as provided in this act for holding the courts; and all causes shall be triable on service heretofore had at the terms of the several courts as herein provided for.

Sec. 6. That all laws and parts of laws in conflict with this act be and the same are hereby repealed, and that this act take effect and be in force from and after its passage.

Approved February 10th, 1875.

CHAPTER XX.

An Act to provide for the proper auditing of the accounts of the Public Printer in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That hereafter all accounts due the Public Printer, for printing done for either House of the Legislature, shall first be examined and approved by the Committee on Public Printing of the House ordering the work to be done, and shall then be examined and approved by the Board on Public Printing, and upon the presentation of any claim thus examined and approved, it shall be the duty of the Comptroller to draw his warrant in favor of the Public Printer for the amount of said account, to be paid out of the contingent fund set apart for the use of the House ordering the work.

Sec. 2. That this act take effect from and after its passage, and all laws and parts of laws in conflict with this act, passed at this session of the Legislature, be and the same are hereby repealed.

Approved February 10th, 1875.

CHAPTER XXI.

An Act to establish a Criminal Court in and for the cities of Paris, Clarksville and Bonham, and for the counties of Lamar, Red River and Fannin; and defining the duties and powers thereof.

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be and there is hereby created and established in the city of Paris, in the county of Lamar, and in the city of Clarksville, in the county of Red River, and in the city of Bonham, in the county of Fannin, each, a court of original and exclusive jurisdic-

tion (except as hereinafter provided), in all cases of felony, and concurrent jurisdiction with justices' courts in all cases of misdemeanor, co-extensive with the limits of the counties in which said cities are respectively situated; and the judge thereof shall, by virtue of his office, have all the powers and perform all the duties appertaining to judges of district courts within this State, in all criminal matters, and to grant all such writs and process as district judges can or may do in the execution of the criminal laws of this State; and said courts shall have and exercise appellate jurisdiction, and the same general control over inferior tribunals in said counties in criminal cases as is now exercised by district courts, and in the same manner and under the same regulations as are now or may hereafter be provided by law; all appeals, writs of error from the judgments of said courts herein established may be taken to the Supreme Court the same as now provided for appeals from the district courts of the State.

Sec. 2. Said court and the judge thereof shall have the power to issue the writ of habeas corpus and such other remedial writs as may be necessary to enforce their own proper jurisdiction, or the proper enforcement of the criminal law by justice's and mayor's courts in said counties.

Sec. 3. The said courts in each city shall have a seal similar in device to those of the district courts, with the words "Criminal Court of ——" engraved thereon, the blank to be filled with the name of the proper city, an impression of which seal shall be made upon all writs and other process (except subpoenas) issuing from said courts, and shall be used by the clerk in authentication of all official acts of said court, and the certified copies of all orders, proceedings, judgments or records of said court, or any papers properly filed in any cause in said court, signed by the clerk thereof and attested with the seal of the court, shall be admissible as evidence in all courts of this State in like manner as similar authenticated copies from the district courts are now or may be hereafter admissible.

Sec. 4. There shall be appointed by the Governor, by and with the advice and consent of the Senate, a judge of said courts, who shall hold his office for the term of eight years, and may be removed from office in the same manner as judges of district courts, or by a repeal of the law creating said courts. Should a vacancy occur in said office

during a recess of the Senate, the Governor shall fill the same by appointment, which shall be sent to the Senate within ten days after that body shall assemble, and if not confirmed, the office shall immediately become vacant.

Sec. 5. The terms of said courts shall be held as follows, to-wit: Commencing at Paris on the first Mondays in February, June and October, and continue in session four weeks; at Bonham on the first Mondays in March, July and November, and continue in session four weeks; at Clarksville on the first Mondays in April, August and December, and continue in session four weeks; and it shall also be the duty of the judge of said courts to hold an extra session of said criminal courts in the months of January, May and September, in each of said cities, for the purpose of trying such cases only wherein the defendants are in jail and unable to give bail for their appearance at regular term; said extra courts may be held for any time not exceeding ten days in each city during said months, and the time for holding the same shall be fixed by the judge at the regular term next preceding the extra term by an order entered upon the minutes of the court for that purpose.

Sec. 6. The trials and proceedings in said courts shall be conducted according to the laws in force concerning criminal actions and the rules of pleading, practice and evidence in the district courts, and the regulations of the Penal Code, the Code of Criminal Procedure, and all other laws with reference to criminal practice and procedure. Said courts shall have the power to enter fines for contempt of court or its process, to render judgments *ni si* or forfeited bail bonds or recognizances, and all other bonds taken for the enforcement and execution of the criminal laws of the State; to issue writs of *scire facias*, and hear and determine all causes on the *scire facias* docket, and enter judgments final on the same, and to enforce the collection of all judgments, fines and forfeitures in the same manner provided by law for district courts.

Sec. 7. A grand jury shall be selected and petit jurors shall be drawn by the county court of each county under the same rules and laws now in force as to district courts, and the venuries for said juries shall be made returnable to the courts at the times specified in this act, and said grand juries shall be organized, charged and controlled by said

court as now provided by the Code of Criminal Procedure, and any other laws regulating juries or jury service in this State.

Sec. 8. All criminal causes and other business pertaining to criminal matters now pending in the district courts of the counties of Lamar, Red River and Fannin, shall be transferred to said criminal courts, as established by this act, in each of the respective cities and counties aforesaid, and the clerk of each of said courts is hereby directed to make said transfer, and after that date said criminal courts shall have and exercise exclusive jurisdiction and control thereof, the same as if originally instituted in said courts.

Sec. 9. The clerks of the district courts, the sheriffs of the counties and the district attorney of the district in which said cities are situated shall be the clerks, sheriffs and district attorney of said courts, under the same rules and regulations as are now prescribed by law for their official acts in the district courts of the State, and they shall be paid the same fees, salary and emoluments they are now by law entitled to in criminal matters in the district courts.

Sec. 10. It shall be lawful for the judge of said courts to exchange or alternate with any district judge, and try the criminal causes in the district courts of the judge with whom he may exchange or alternate, but shall not try any civil suits, nor shall said judge be allowed to practice as an attorney in any court of the State during his continuance in office.

Sec. 11. The judge of the criminal courts herein established shall receive an annual salary of thirty-five hundred dollars, to be paid by the State in the same manner as other district judges heretofore provided for.

Sec. 12. Whenever the judge of said courts may be interested or legally disqualified from presiding on the trial of any cause pending therein, the venire [venue] of said cause shall be changed to the district court of the county wherein said cause is pending, to be therein proceeded with in accordance with law.

Sec. 13. All capiases and other process pertaining to criminal causes issued from the district courts of the counties named in this act, shall be made returnable to said criminal courts at the time fixed by this act for the commencement of said courts in the respective cities aforesaid, and all bail bonds hereafter taken by the sheriffs or committing magistrates in the counties aforesaid shall

be conditional, for the appearance of the parties at the courts as fixed by this act.

Sec. 14. All laws and parts of laws in conflict herewith are hereby repealed, and this act shall take effect and be in force from and after its passage.

[Note.—The foregoing bill was presented to the Governor of Texas for his approval on the fifth day of February, A. D. 1875, and was neither signed by him nor returned to the house in which it was originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—A. W. DeBerry, Secretary of State.]

CHAPTER XXII.

An Act to improve the navigation of the Neches river, in the State of Texas, from Weiss's Bluff on said river to Bunn's Bluff.

Section 1. Be it enacted by the Legislature of the State of Texas, That a board of six commissioners, (any four of whom may act,) to be appointed by the Governor, are hereby constituted, with full power to superintend, contract for, and control the opening and cleaning out of the Neches river in this State, from Weiss's Bluff to Bunn's Bluff on said river.

Sec. 2. That the said board of commissioners so appointed shall, within two months from the passage of this act, or as soon thereafter as practicable, enter into contract with solvent, responsible and experienced contractors to open and thoroughly clean out a channel in said river, at least ninety feet in width, by cutting or sawing off, digging out, or otherwise removing, all snags, trees or other obstructions, three feet below low tide water, that in any way interferes with the navigation of said river, and to cut down all trees likely to obstruct the navigation of said river, between said Weiss's Bluff and Bunn's Bluff.

Sec. 3. That the Governor of the State of Texas is hereby authorized and required to appoint a competent and skillful engineer to examine and pass upon each and every mile of said river so opened and freed from obstructions; and the said engineer so appointed, when he shall

have inspected and approved of said work, shall file a certificate under oath, with the Comptroller of Public Accounts of the State of Texas, setting forth the number of miles of said river opened and cleaned out, as required by the terms of this act; and for each and every day actually employed in inspecting said work so done on said river, the said engineer shall be entitled to the sum of eight dollars, to be paid by the contractor or contractors.

Sec. 4. That upon the filing of a certificate of the engineer, as provided for in the third section of this act, the Commissioner of the General Land Office of the State of Texas shall issue or cause to be issued to the contractor or contractors, who shall open and clear out said river between the points herein designated, for each and every mile of said river so opened eight certificates, each for six hundred and forty acres of land.

Sec. 5. That the certificates issued to said contractor or contractors, under the provision of this act, shall be located and surveyed in alternate sections; that is to say, for each certificate two sections of land, of six hundred and forty acres of land each adjoining, shall be surveyed, and the field notes and maps thereof returned to the General Land Office, whereupon the Commissioner of the General Land Office shall number said sections, and cause to be issued to said contractor or contractors, or their assignees, patents to the odd sections, the even sections being reserved to the State for the school fund; provided, always, that the State of Texas shall not be responsible for deficiency of public domain.

Sec. 6. That said contractor or contractors shall complete the work contemplated in section second of this act by January the first, 1876, and shall take no benefit under this act for work done after that time.

Sec. 7. That the land obtained under the provisions of this act shall be alienated by said contractor or contractors as follow: one-fourth in eight years, one-fourth in twelve years, one-fourth in sixteen years, from the date of the certificates; provided, that the same shall not be sold to any company or corporation, except so far as may be necessary for the proper use, and necessary for the conducting the business of such company or corporation, or to any person, firm or company, in trust for said contractor or contractors; and a failure to comply with, or any viola-

tion of, the provisions of this section shall work a forfeiture of all lands not alienated as required by this act.

Sec. 8. That the engineer appointed to inspect the above work shall be appointed at the expense of the contracting parties, and the land certificates hereinbefore mentioned shall be issued only for work actually done.

Sec. 9. That this act take effect and be in force from and after its passage.

Approved February 13th, 1875.

CHAPTER XXIII.

An Act appropriating five thousand dollars to improve the Capitol Grounds.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of five thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated, out of any money in the treasury not otherwise appropriated, for the purpose of improving the Grounds within the present Capitol enclosure.

Sec. 2. That the improvement of said grounds shall be made under the direction of the person in charge of the Capitol Grounds and State Cemetery, appointed under the act of April 29, 1874.

Sec. 3. That the Comptroller of Public Accounts is hereby authorized to issue his warrant on the Treasurer, upon itemized accounts for the work done on said Grounds, when the same are duly certified to under oath.

Sec. 4. That this act take effect from its passage.

Approved February 13th, 1875.

CHAPTER XXIV.

An Act to amend section one of "An Act directing the publication of the expenditures, assets and indebtedness of the several counties," approved March 8th, 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That the first section of the above recited act shall be amended so as to read as follows: Section 1.

That the county courts of the several counties shall make, regularly and quarterly, tabular statements of the expenditures, assets and indebtedness of their respective counties, specifying names of creditors and items of indebtedness, with their respective dates of accrual, and also the names of persons to whom moneys may have been paid, and shall cause said statements to be published on the first day of July and the thirty-first day of December of each year; that on the first day of July shall be made, by posting up at the door of the courthouse of the county, a copy of said statement, for two months; and that on the thirty-first day of December, once in the newspaper published in the county having the largest circulation in the same; provided, the cost of publication does not exceed fifty dollars; and should there be no newspaper published in the county, then four copies of said statement shall be posted at four different public places in the county, and also one other copy shall be posted at the court-house door one month.

Sec. 2. That this act take effect from and after its passage.

Approved February 13th, 1875.

CHAPTER XXV.

An Act to repeal an act entitled, "An Act concerning the levy of taxes for Bexar county," passed August 12th, 1870.

Section 1. Be it enacted by the Legislature of the State of Texas, That an act entitled "An Act concerning the levy of taxes for Bexar county," passed August 12th, 1870, be, and the same is hereby repealed.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved February 13th, 1875.

CHAPTER XXVI.

An Act to legalize and validate all amendments to town and city charters, made under the provisions of "An Act to provide for the amendment of town and city charters," approved April 24th, 1874.

Section 1. Be it enacted by the Legislature of the State of Texas, That all amendments heretofore made to town and city charters, in accordance with the provisions

of "An Act to provide for the amendment of town and city charters," approved April 24th, 1874, be and the same are hereby fully legalized and validated when done in accordance with law, and that this act take effect and be in force from and after its passage.

Approved February 13th, 1875.

CHAPTER XXVII.

An Act making provisions for the purchase and safe-keeping of a library of moral and useful books, for the use and improvement of the convicts confined in the State Penitentiary.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of five hundred dollars be and the same is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, for the purpose of purchasing a library of moral and useful books, periodicals and publications for the use of the convicts confined in the State penitentiary.

Sec. 2. That the directors of said penitentiary be and they are hereby authorized to receive said sum of money from the Treasurer of the State of Texas, upon the proper warrant of the Comptroller of Public Accounts, and to cause the same to be laid out and applied in the purchase of such books, periodicals and publications as they may deem conducive to the improvement of the minds, and the reform of the conduct and character of said convicts.

Sec. 3. That said directors shall be charged with the duty of causing all due provisions to be made for the needful use and safe-keeping of said library, and shall file with the Secretary of State a list of said books, etc., with the prices.

Approved February 13th, 1875.

CHAPTER XXVIII.

An Act amendatory of and supplemental to "An Act amendatory of and supplemental to an act entitled 'An act to regulate the assessment and collection of taxes,'" approved May 31, 1873. Approved April 30th, 1874.

Section 1. Be it enacted by the Legislature of the State of Texas, That section three of the above recited act shall hereafter read as follows: "Section 3. That section twenty-seven of the above recited act shall hereafter read

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as follows: 'Section 27. That every sheriff or tax collector, in a settlement of his accounts with the Comptroller, shall be entitled to a compensation on amount by him collected and paid into the Treasury for the use of the State, of eight per cent. on the first five thousand dollars, and five per cent. on all sums over five thousand dollars and not above fifteen thousand dollars, and three per cent. on all amounts over fifteen thousand dollars; and on a settlement of his accounts with the county treasurer of his county, one-half of the like per cent. on the amount collected by him and paid into the treasury for the use of the county. Sheriffs or their deputies, or tax collectors, shall be allowed and paid for distraint under this act what they are allowed and paid for like services in civil suits, to be paid by the delinquents, and shall also be allowed and paid ten cents per mile for every mile necessarily and actually traveled by them in going to and returning from the Capitol, in order to make their annual settlements and pay into the treasury the tax collected by them; that the several justices of the peace or assessors shall be allowed and paid the following fees and commissions for the assessment of taxes for the year eighteen hundred and seventy-five, and until otherwise provided by law, to-wit: Each justice or assessor shall be allowed upon the total amount of ad valorem, State tax, poll tax, and county tax assessed by him a commission of five per cent. on the first five thousand dollars and under; four per cent. on sums over five thousand dollars and not over ten thousand dollars; and two per cent. on all assessments over ten thousand, of which commissions, the State shall pay two-thirds and the county one-third. All fees and commissions which are to be paid by the State for the assessment of taxes, including those for the year eighteen hundred and seventy-four, shall be paid as follows: The Comptroller shall draw his draft on the sheriff of the county in favor of each justice or assessor for the amount he may be entitled to by law, which draft shall be paid by the sheriff or tax collector out of any State funds in his hands, and when so paid, shall be received by the Comptroller as a voucher in favor of the sheriff or tax collector in his settlement with the Comptroller."

Sec. 2. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed, and this act shall take effect and be in force from and after its passage.

Approved February 13th, 1875.

CHAPTER XXIX.

An Act to authorize the Governor to employ a detective to ferret out frauds in regard to land claims against the State, and to make an appropriation to defray the expenses of the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor be and he is hereby authorized and empowered to employ a suitable detective to ferret out frauds in the land claims against the State, and so direct the operations of said detective in such way and manner, not inconsistent with the laws of the State, and the rights of individuals under the law, as he may consider most practicable.

Sec. 2. The sum of five thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated, out of any money in the treasury not otherwise appropriated, to enable the Governor to carry this act into effect; and the Comptroller is hereby authorized to draw his warrant on the Treasurer, in favor of the Governor, for the whole or any part of said sum of five thousand dollars upon demand by the Governor.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved February 15th, 1875.

CHAPTER XXX.

An Act to provide for the building and completing of two State Penitentiaries, with a view to the utilization of the convict labor of the State in mining and manufacturing enterprises.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor be and is hereby authorized and required, at the earliest convenient day after this act takes effect, to appoint five commissioners, whose duty shall be to select two locations, having due regard to mining, manufacturing, and other advantages and facilities: to the supply of building materials and means of transportation, etc., for the building of two State Penitentiaries. One of said locations shall be made northeastward of the Trinity river, with the view of utilizing in

manufactures the iron ores which abound in that section of the State; and the other one westward from the river Colorado, in contemplation of the manufacture of cotton, wool, leather, and other goods and fabrics, that will not come into competition with the personal industries of the mechanical professions.

Sec. 2. When said commissioners shall have decided upon the immediate sections of country combining the greatest advantages for the location of said penitentiaries, they shall at once advertise in all of the local prints, and by handbills, for proposals of donation or sale to the State of sufficient bodies of land whereon to erect said penitentiaries, not less than two hundred acres for each penitentiary; due and full consideration, in regard to the penitentiary to be located northeastward of the Trinity river, being had to the local supply of iron ore, coal or other fuel, water, and building material, and to the facilities of transportation to market of such iron manufactures as may there be manufactured.

Sec. 3. Said commissioners shall cause due examination to be made, at legal, competent and reliable sources of advice and information, into the validity and completeness of title to the lands which may be offered to the State in donation or at sale for the sale of sites for said penitentiaries, and shall have power, by and with the consent of the Governor, to accept in donation, or to contract for and purchase the sites most appropriate under the considerations hereinbefore named for the erection of said penitentiaries.

Sec. 4. Said commissioners, so soon as they shall have acquired title to the State for sites, shall immediately advertise, for the period of sixty days, in at least three public journals of the State having the widest circulation, and if deemed useful, in one or more journals in other States having circulation among the contracting and building public, for proposals of plans, specifications, and other particulars for the proper and substantial building and completion, within a given time, under due guaranties, of two State Penitentiaries at the sites indicated in the advertisement.

Sec. 5. That said commissioners shall give due consideration in selecting plans for said penitentiaries, to the modern forms of constructing public prisons, which have proved to be the best for the health and comfort of convicts.

Sec. 6. When the commissioners shall have made selection of the plan, and determined the character of the penitentiary to be first constructed, they shall submit a full report of the same to the Governor, and by his advice and consent enter into a contract for, and on the part of the State, to be approved by the Governor, with the parties offering the most reliable and best terms for the interest of the State.

Sec. 7. After the contract for the building of the first penitentiary shall have been entered into, the Governor shall appoint an inspector, or board of inspectors of penitentiary construction, whose duty it shall be to see and require that all parts, specifications and stipulations of the contract with the builders of the penitentiary are duly, faithfully and fully performed and complied with by the contracting parties.

Sec. 8. Said inspector shall make full and complete monthly reports to the Governor of the progress of the works of construction, and the manner and mode in which the building is being erected, and of such other particulars as may be deemed proper or be required by the Governor.

Sec. 9. A majority of said commissioners shall constitute a quorum, and be lawfully enabled to discharge the duties with which they are charged, and to exercise the powers conferred upon them by the provisions of this act.

Sec. 10. The period of sixty days from their qualification and entering upon the discharge of the duties of this trust, is appointed for said commissioners in which to make their selection of the several sites of the respective northeastern and western penitentiaries, provided for in this act, and to determine which of said penitentiaries shall be first constructed.

Sec. 11. Said commissioners shall continue to act and have power in their trust until they shall have closed their contracts for the building of said penitentiaries, when the same shall cease and determine. Said commissioners shall be entitled to have and receive from the Comptroller and Treasurer of the State, the sum of five dollars per day each, and mileage five cents per mile going and returning while actually employed in the discharge of their duties under this act, to be paid to them upon their due affidavit of the time and distance traveled while employed in the same.

Sec. 12. The inspector of penitentiary construction shall receive for his services the sum of five dollars per day while

actually employed in the discharge of the duties of his appointment, to be paid to him monthly by the Treasurer of the State, upon the warrant of the Comptroller, due affidavit being filed by him with the Comptroller in regard to the time of his actual services as such inspector.

Sec. 13. Every appointee under the provisions of this act shall take and subscribe an oath before some competent authority, to be filed in the office of the Secretary of State, that he will well and truly, honorably and faithfully, to the best of his skill and ability, discharge and perform the duties charged upon him by the provisions of this act, and which may be further enjoined upon him by the Governor.

Sec. 14. That the sum of five thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated, out of any moneys in the treasury not otherwise appropriated, to defray the expenses of the services of said commissioners, and the incidental expenses of advertising and of counsel for legal services, as provided for in this act.

Sec. 15. That this act take effect and be in force from and after its passage.

Approved February 16th, 1875.

CHAPTER XXXI.

An Act regulating Fire and Marine Insurance Companies, and providing fines and penalties for its enforcement.

Section 1. Be it enacted by the Legislature of the State of Texas, That hereafter, when any number of persons associate themselves together for the purpose of forming an insurance company, for any other purpose than life insurance, they shall publish a notice of such intention once in each week, for four weeks, in some public newspaper in the county in which such insurance company is proposed to be located; and they shall also make a certificate under their hand, specifying the name assumed by such company, and by which it shall be known, the object for which said company shall be formed, the amount of its capital stock, and the place where the principal office of said company shall be located, which certificate shall be acknowledged before and certified by some notary public

or clerk of court of record and forwarded to the Comptroller of State, who shall submit the same to the Attorney-General of State for examination, and if it shall be found by the Attorney-General of State to be in accordance with the provisions of this act, and not in conflict with the constitution and laws of the United States and this State, he shall make certificate of the facts, and return it to the Comptroller of State, who shall reject the name or title applied for by any company when he shall deem the same too similar to any one already appropriated by any other company, or likely to mislead the public.

Sec. 2. When the said certificate of the said company shall have received the approval of the Attorney-General of State and Comptroller of State, the said company shall cause the same to be recorded as now required by law for recording articles of incorporation; and said persons, when incorporated and having in all respects complied with the provisions of this act, are hereby authorized to carry on the business of insurance, as named in such certificate of incorporation, and by the name and style provided therein, and shall be deemed a body corporate with succession, they and their associates, successors and assigns, and shall be capable of suing and being sued, and maintaining any action to final judgment and execution, and shall in law be capable of purchasing, holding, improving and conveying any estate, real, personal or mixed, for the use of the corporation, as hereinafter provided.

Sec. 3. No joint stock company shall be incorporated under the provisions of this act, with a smaller capital than one hundred thousand dollars, as may be specified in the certificate of incorporation, which stock shall be divided into shares of one hundred dollars each.

Sec. 4. Having published the notice and filed publishers's affidavit of the publication thereof with the Comptroller of State, together with the certificate, as required by the first section of this act, the persons named in the certificate of incorporation, or a majority of them, shall be commissioned to open books for the subscription of stock to the company, at such times and places as to them may seem convenient and proper, and shall keep the same open until the full amount specified in the certificate is subscribed.

Sec. 5. The affairs of any company organized under the provisions of this act shall be managed by not more

than thirteen nor fewer than seven directors, all of whom shall be stockholders. Within thirty days after the subscription books shall have been filled, a majority of the subscribers shall hold a meeting for the election of directors, each share entitling the holder thereof to one vote; and the directors there elected shall continue in office until their successors have been duly chosen and have accepted the trust.

Sec. 6. It shall be lawful for any insurance company organized under this act to invest its capital in bonds and mortgages on unencumbered real estate, within the State of Texas, worth double the sum loaned thereon, exclusive of buildings, unless such buildings are insured in some responsible company or companies, and the policy or policies transferred to said company, and also in stocks of this State or stocks or treasury notes of the United States, in the stocks and bonds of any county or incorporated city in this State, which may have been heretofore authorized to be issued by the Legislature of this State, and to lend the same, or any part thereof, on the security of such stock, or lands, or treasury notes, or upon bonds and mortgages as aforesaid, or upon bills of exchange, or other commercial notes and bills, and not otherwise; and to change and reinvest the same in like securities, as occasion may from time to time require; but any surplus money over and above the paid-up capital stock of any such company organized under this act or incorporated under any law of this State, may be invested in or loaned upon the pledge of public stocks of the United States, or any of the States, or stocks, bonds, or other evidences of indebtedness of any solvent, dividend-paying institutions, incorporated under the laws of this State or the United States, and in bills of exchange, or other commercial notes or bills, except their own stock; provided, always, that the current market value of such stock, bonds, or other evidences of indebtedness, shall be at all times during the continuance of such loans at least twenty per cent. more than the sum loaned thereon.

Sec. 7. Upon receiving notification that the requirements of the preceding sections have been complied with, the Comptroller of State shall make an examination, or cause one to be made by some disinterested person, officially appointed by him for that purpose; and if it shall be found that the capital herein required by the company

named, according to the nature of the business proposed to be transacted by such company, has been paid in and possessed by it, in money, or in such stocks, notes, bonds, or mortgages, as are required by the third and sixth sections of this act, then he shall so certify; and if the examination be made by other than the Comptroller, then the finding shall be certified under oath. The corporators or officers of any such company or proposed company contemplated by this act, shall be required to certify, under oath, to the Comptroller of State, that the capital exhibited to the person making the examination directed in this section, was bona fide property of the company so examined; the certificates above contemplated shall be filed in the office of said Comptroller, who shall thereupon deliver to such company a certified copy of the same, with his written permission for them to commence business as proposed in their written certificate of incorporation, which on being placed on record in the office of the recorder of the county in which the company is to be located, by the recorder, in a book prepared by him for that purpose, shall be their authority to commence business and issue policies; and such certified copy of said certificate may be used in evidence for or against said company with the same effect as the originals.

Sec. 8. It shall be lawful for any company organized under this act, or doing business in this State, to insure houses, buildings, and all other kinds of property, against loss or damage by fire, and to make all kinds of insurance on goods, merchandise, or other property, in the course of transportation, whether on land or water, or any vessel afloat, wherever the same may be; to lend money on bottomry or respondentia, and to cause itself to be insured against any loss or risk it may have incurred in the course of its business and upon the interest which it may have in any property by means of any loan or loans which it may have made on mortgage, bottomry, or respondentia; and generally to do and perform all other matters and things proper to promote these objects. And no company organized under this act, or transacting business in this State, shall expose itself to loss on any one risk or hazard, except when insuring cotton in bales, to an amount exceeding ten per cent, of its paid-up capital, unless the excess shall be insured by the same in some other good and reliable company.

Sec. 9. The annual meeting for the election of directors shall be holden during the month of January, as the by-laws of the company may direct; provided, however, that if for any cause the stockholders shall fail to elect at any annual meeting, then they may hold a special meeting some day subsequent thereto for that purpose, by giving thirty days' notice thereof in some newspaper in general circulation in the county in which the principal office of the company shall be located; and the directors chosen at any such annual or special meeting shall continue in office until the next annual meeting, and until their successors duly elected shall have accepted.

Sec. 10. The directors shall choose by ballot a president from their own number, and shall fill all vacancies which shall arise in the board or in the presidency thereof, and the board of directors thus constituted or a majority of them, when convened at the office of the company, shall be competent to exercise all the powers vested in them by this act.

Sec. 11. The directors of any such company shall have power to appoint a secretary and any other officer or agent necessary for transacting the business of the company, paying such salaries and taking such securities as they may deem reasonable; they may ordain and establish such by-laws and regulations, not inconsistent with this act or with the Constitution and laws of the United States and of this State, as shall appear to them necessary for regulating and conducting the business of the company; and it shall be their duty to keep full and correct entries of their transactions, which shall at all times, during business hours, be open to the inspection of such persons as are entitled thereto.

Sec. 12. All policies or contracts of insurance made or entered into by the company may be made either with or without the seal of said company; but said policies shall be subscribed by the president or such other officer as may be designated by the directors for that purpose, and shall be attested by the secretary thereof.

Sec. 13. Transfers of stock may be made by stockholder or his legal representative, subject to such restrictions as the directors shall from time to time establish in their by-laws.

Sec. 14. Whenever any company organized under this act shall, in the opinion of the directors thereof, require an

increased amount of capital, they shall, if authorized by the holders of a majority of the stock to do so, file with the Comptroller of State a certificate setting forth the amount of such desired increase, and thereafter such company shall be entitled to have the increased amount of capital fixed by said certificate; and the examination of securities composing the capital stock thus increased shall be made in the same manner as provided in section seven of this act, for the capital stock first paid in.

Sec. 15. It shall not be lawful for the directors, trustees or managers of any insurance company organized under this act or incorporated under any law of this State, to make any dividend except from the surplus profit arising from their business, and in estimating such profits there shall be reserved therefrom a sum equal to forty per cent, of the amount received as premiums on unexpired fire risks and policies, and one hundred per cent. of the premiums received on unexpired marine and inland transportation risks, which amount so reserved is hereby declared to be unearned premiums; and there shall also be reserved the amount of all unpaid losses, whether adjusted or unadjusted, all sums due the corporation on bonds and mortgages, bonds, stocks and book accounts of which no part of the principal or interest thereon has been paid during the year preceding such estimate of profits, and upon which suit for foreclosures or collections has not been commenced, or which after judgment has been obtained thereon, shall have remained more than two years unsatisfied and upon which interest shall not have been paid; and in case of any such judgment, the interest due or accrued thereon and remaining unpaid shall also be reserved. Any dividends made contrary to these provisions shall subject the company making it to a forfeiture of their charter.

Sec. 16. No company organized under this act shall purchase, hold or convey any real estate, save for the purpose and in the manner herein set forth, to-wit: 1st. Such as shall be requisite for its convenient accommodation in the transaction of its business. 2d. Such as shall have been mortgaged to it in good faith by way of security for loans previously contracted or for money due; or, 3d. Such as shall have been conveyed to it in satisfaction of debts previously contracted in the legitimate business of the company or for money due; or 4th. Such as shall have

been purchased at sales or upon judgments, decrees, or mortgages obtained or made for such debts.

Sec. 17. It shall be the duty of the president or of the vice-president and secretary of each company organized under this act, or incorporated under any law of this State, or doing business in this State, annually, on the first day of January of each year, or within sixty days thereafter, to prepare under oath and deposit in the office of the Comptroller of State, a full, true and complete statement of the condition of such company on the last day of the month of December preceding, which last statement shall exhibit the following items and facts in the following forms, viz:

First, The name of the company, and where located.

Second, The name of the officers.

Third, The amount of capital stock of the company.

Fourth, The amount of capital stock paid up.

Fifth, The property or assets held by the company, specifying the value, as near as may be, of the real estate owned by such company.

The amount of cash on hand and deposited in banks to the credit of the company, and in what bank the same is deposited.

The amount of cash in the hands of agents and in course of transmission.

The amount of loans secured by first mortgages on real estate, with the rate of interest thereon, specifying the location of such real estate, and its valuation.

The amount of all other bonds and loans, and how secured, with the rate of interest thereon.

The amount due the company on which judgments have been obtained.

The amount of stocks of this State, of the United States, of any incorporated city of this State, and of any other stock owned by the company, specifying the amount, numbers of shares, and par and market value of each kind of stock.

The amount of stock held by such company as collateral security for loans, with amount loaned on each kind of stock, its par and market value.

The amount of interest actually due and unpaid.

All other securities and their value.

Sixth, the liabilities of such company, specifying the losses adjusted and due.

Losses adjusted and not due.

Losses unadjusted.

Losses in suspense, and the causes thereof.

Losses resisted and in litigation.

Dividends either in scrip or cash, specifying the amount of each declared, but not due.

Dividends declared and due.

The amount required to reinsure all outstanding risks on the basis of forty per cent. of the premium on all unexpired fire risks, and one hundred per cent. on the premiums on all unexpired marine and inland transportation risks.

The amount due banks or other creditors.

The amount of money borrowed, and the security therefor.

All other claims against the company.

Seventh, the income of the company during the previous year, stating the amount received for premiums, specifying separately fire, marine and inland transportation premiums, deducting reinsurance, the amount received for interest, and from all other sources.

Eighth, The expenditures during the preceding year, specifying the amount of losses paid during said term, stating how much of the same accrued prior, and how much subsequent to the date of the preceding statement, and the amount at which losses were estimated in such preceding statement.

The amount paid for dividends. The amount paid for return premiums, commissions, salaries, expenses, and other charges of officers, agents, clerks and other employees.

The amount paid for local, State, national, internal revenue, and other taxes and duties.

The amount paid for all other expenses, including printing, stationery, rents, furniture, etc.

Ninth, The largest amount insured in any one risk.

Tenth, The amount of risks written during the year then ending.

Eleventh, The amount of risks in force having less than one year to run.

Twelfth, The amount of risks in force having more than one, and not over three years to run.

Thirteenth, The amount of risks having more than three years to run.

Fourteenth, The following question must be answered, viz: Are dividends declared on premiums received for risks not terminated?

The Comptroller of State shall withhold the certificate of authority from any such company neglecting or failing to comply with the provisions of this section.

Sec. 18. The Comptroller of State is hereby authorized and empowered to address any inquires to any insurance company in relation to its doings and condition, or any other matter connected with its transactions which he may deem necessary for the public good, or for a proper discharge of his duties; and it shall be the duty of any company so addressed to promptly reply in writing thereto.

Sec. 19. It shall not be lawful for any insurance company, association or partnership, organized or associated for any of the purposes specified in this act, incorporated by or organized under the laws of any other State of the United States, or any foreign government, directly or indirectly to take risks, or transact any business of insurance in this State, unless possessed of one hundred thousand dollars of actual paid-up capital, exclusive of any assets of any such company as shall be deposited in any other States or Territories for the special benefit or security of the insured therein; and any such company desiring to transact any such business as aforesaid, in this State, may be sued in any county in this State in which the cause of action or a part thereof accrued, and shall appoint one attorney in the State, and shall file with the Comptroller of State a written instrument duly signed and sealed, authorizing such attorney of such company to acknowledge service of process for and in behalf of such company in this State, consenting that such service of process, mesne or final, upon such attorney, shall be taken and held as valid as if served upon the company, and service of process may be had on any such company by delivering a copy thereof to the President, Secretary, or Treasury of such company, according to the laws of this State, and waiving all claim or right of error by reason of such acknowledgment or service, and also a certified copy of their charter or deed of settlement, together with a statement, under the oath of the President or Vice President, or other chief officer, and the Secretary of the company for which they may act, stating the name of the company and the place where located, the amount of its capital, with a detailed statement of the facts and items as required from companies organized under the laws of this State, as per section seventeen hereof; and shall also file the certificate of com-

pliance with the laws of their own State; and no agent shall be allowed to transact business for any company whose capital is impaired by the liabilities, as stated in section seventeen of this act, to the extent of twenty-five per cent. thereof, while such deficiency shall continue.

Sec. 20. It shall not be lawful for any agent or agents to act for any insurance company or companies referred to in this act, in taking risks or transacting business of insurance in this State, without procuring from the Comptroller of State a certificate of authority, stating that such company has complied with all the requisitions of this act.

Sec. 21. The statements and evidences of investments required of foreign companies as above, shall be renewed annually in such manner and form as required by this act, and as said Comptroller may direct, with any additional statement of the amount of the losses incurred or premiums received in this State during the preceding period, so long as such agency continues; and the said Comptroller, on being satisfied that the capital, securities and investments remain secure, as hereinbefore provided, shall furnish a renewal of his certificate as aforesaid.

Sec. 22. It shall be the duty of the Comptroller of State upon receiving reliable information that the affairs of any insurance company, incorporated by, or doing business in this State, are in an unsound condition by impairment of capital, or otherwise to call upon any such company for a full statement of its condition, and in event of refusal or neglect of any company to answer the requisition, or, if the exhibit be unsatisfactory to him, he shall make the examination himself, or appoint one or two persons, not officers, employees or agents of any insurance company; and it shall be the duty of the officers or agents of such company or companies to cause their books and assets to be opened for the inspection of the Comptroller or the person or persons so appointed, and otherwise facilitate such examination so far as may be in their power so to do; and for the purpose of arriving at the truth in such cases, the Comptroller, or person or persons so appointed by him, shall have power to examine, under oath, the officers or agents of any company or others, if necessary, relating to the business and condition of said company; and whenever the Comptroller shall deem it best for the interest of the public so to do, he shall publish the result of such investigation in one or two papers of this State, one of which

shall be published in the county in which the principal office of said company is located; and whenever it shall appear to the said Comptroller from such examination, that the assets and funds of any company incorporated in this State are reduced or impaired by the liabilities of said company, as described under the head of liabilities in the statement required by this act, more than twenty-five per cent. below the paid-up capital stock required by this act, he shall direct the officers thereof to require the stockholders to pay in the amount of such deficiency within sixty days from the date of such requisition. Should said company decline or wilfully neglect to make good said deficiency, he shall communicate the fact to the Attorney-General of State, whose duty it shall then become to apply to the district court, or, if in vacation, to one of the judges thereof, for an order requiring said company to show cause why their business should not be closed; and the court or judge, as the case may be, shall thereupon proceed to hear the allegations and proofs of the respective parties; and in case it shall appear to the satisfaction of said court or judge that the assets and funds of said company are not sufficient as aforesaid, or that the interest of the public require it, the said court or judge shall decree a dissolution of said company, and a distribution of its effects; the said court or judge shall have power to refer the application of the Attorney-General of State to a referee, to inquire into and report upon the facts stated [t] herein; and if the Comptroller, upon examination, is satisfied that the affairs of any insurance company doing business in this State, and not organized under its laws, are in an unsound condition, he shall revoke the certificate granted in behalf of such company, and shall cause the notification thereof to be published in two newspapers in general circulation, published in this State, one of which shall be published in the county where the principal office of such company is located; and the agent or agents of such company are, after such notice, required to discontinue the issuing of any new policy, or the renewal of any previously issued. For such examination, ordered by the Comptroller, under this act, there shall be allowed to the person or persons making such examination the amount of ten dollars per day, not to exceed in all two hundred and fifty dollars, together with actual traveling expenses to be paid, on the Comptroller's certificate, by the company which is the subject of such investigation.

Sec. 23. Any company receiving the aforesaid requisition from the said Comptroller, shall forthwith call upon its stockholders for such amounts as will make its paid up capital equal to the amount filed by this act, or the charter of said company; and in case any stockholder shall refuse or neglect to pay the amount so called for, after notice personally given, or by advertisement, in such time and manner as said Comptroller shall approve, it shall be lawful for the said company to require the return of the original certificate of stock held by such stockholder, and in lieu thereof, to issue new certificates for such number of shares as the said stockholders may be entitled to, in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company, the value of such shares for which new certificates shall be issued to be ascertained under the direction of the Comptroller, the said company paying for the fractional part of shares. And it shall be lawful for the directors of such company to create new stock and dispose of the same, and to issue new certificates therefor, to an amount sufficient to make up the original capital of the company; and in the event of any additional losses accruing upon new risks taken upon the expiration of the period limited by the said Comptroller in the aforesaid requisition for the filling up of the deficiency in the capital of such company, and before said deficiency shall have been made up, the directors shall be individually liable to the extent thereof.

Sec. 24. There shall be paid by every company, association, person or persons, agent or agents, to whom this act shall apply, the following fees: For filing and examination of the first application of any company and issuing of the certificate of license thereon, twenty-five dollars; for filing each annual statement herein required, ten dollars; for each certificate of authority, one dollar; for every copy of paper filed as herein provided, the sum of ten cents per folio, and fifty cents for certifying the same and affixing the seal of office thereto; which fees shall go to the Comptroller for the payment of the salary of an insurance clerk; and the Comptroller is hereby authorized and empowered, upon the passage of this act, to appoint a suitable person experienced in the business of insurance as clerk of the insurance department, whose duty it shall be, under the supervision and direction of the Comptroller, to attend to

all matters in detail connected with insurance in this State; and said clerk shall receive in full of all compensation for his services the fees (exclusive of taxes) required to be paid by insurance companies under this act.

Sec. 25. When, by the laws of any other State, any taxes, fines, fees for certificates of license, penalties, deposits of money or of securities, or other obligations or prohibitions, are imposed upon companies of this State, as a condition prior to doing business in such other State, the same obligations shall be imposed upon all insurance companies of such other State doing business in this State; and such companies required to make deposits in this State are likewise required to make said deposit either in the bonds of the State of Texas or in the currency of the United States.

Sec. 26. It shall be the duty of every such insurance company doing business in this State, organized under the laws of this State or any other State or country, to publish once annually, in two newspapers of general circulation, one of which newspapers shall be published at the capital of the State, (and in case of companies organized in the State of Texas, one of which shall be published in the county where the principal office is located,) a certificate from the Comptroller of State that such company has in all respects complied with the laws of this State relating to insurance.

Sec. 27. It shall be the duty of the Comptroller of State to cause to be prepared and furnished to each of the companies organized under the laws of this State, and to attorneys or agents of companies incorporated by other States and foreign governments, who may apply for the same, printed forms of statements required by this act, and he may from time to time make such changes in the form of these statements as shall seem to him best adapted to elicit from the companies a true exhibit of their condition in respect to the several points hereinbefore enumerated.

Sec. 28. It shall be the duty of the Comptroller of State to cause the information contained in the statements required of the companies organized in this State, to be arranged in tabular form, and prepare the same in a single document for printing, and submit the same to the Legislature, as a portion of his regular report to that body.

Sec. 29. Should any insurance company fail or neglect to pay off and discharge any execution issued upon a valid judgment against said company, within thirty days after notice of the issuance thereof, then and in that event, the certificate of authority of said company to transact business of insurance, shall be revoked, cancelled and annulled, and said company shall be prohibited from transacting business of insurance in this State until said execution be satisfied.

Sec. 30. Any insurance company incorporated by this or any other State, or foreign government, issuing policies of insurance in this State without first obtaining a certificate of authority as provided in this act, or making any false return, or violating any of the provisions of this act, shall be subject to a fine of not less than five hundred dollars or more than one thousand dollars. Any person or agent transacting the business of insurance, whether as agent, solicitor or broker, without the certificate of authority, as before provided, or violating any of the provisions of this law, shall be subject to a fine of not less than five hundred dollars, nor more than one thousand dollars, and imprisonment of not less than three or more than six months.

Sec. 31. That this act shall be published for four consecutive weeks in four leading papers of this State, and the provisions thereof shall take effect and be in force in three months from and after its passage.

Approved February 17th, 1875.

CHAPTER XXXII.

An Act supplementary to and amendatory of An Act prescribing the times of holding the District Courts in the several Judicial Districts in the State, approved August 10, 1870. Approved March 1, 1871.

Section 1. Be it enacted by the Legislature of the State of Texas, That section fifteen (15) of "An Act prescribing the times of holding the District Courts in the several Judicial Districts in the State," approved August 10, 1870, approved March 1, 1871, be so amended as to read hereafter as follows, to-wit: Section 15. That the District Courts of the Fourteenth Judicial District shall be holden

at the times hereinafter specified, to-wit: In the county of Ellis on the first Mondays in January, May and September, and may continue in session four weeks; in the county of Dallas on the first Mondays in February, June and October, and may continue in session five weeks; in the county of Tarrant on the second Mondays in March, July and November, and may continue in session seven weeks, or until the business is disposed of.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved February 18th, 1875.

CHAPTER XXXIII.

An Act to establish a Criminal Court in and for the cities of Jefferson in Marion county, Marshall in Harrison county, Tyler in Smith county, and Palestine in Anderson county; and defining the powers thereof.

Section 1. Be it enacted by the Legislature of the State of Texas, That there is hereby created and established at the city of Jefferson in Marion county, Marshall in Harrison county, Tyler in Smith county, and Palestine in Anderson county, each a court of original and exclusive jurisdiction, (except as hereinafter provided) in all cases of felony, and concurrent jurisdiction in all cases of mis-demeanor, co-extensive with the limits of the several counties wherein said cities are situated; and the judge thereof shall, by virtue of his office, have all the powers and perform all the duties appertaining to judges of the district courts within this State in all criminal matters, and to grant all such writs and process, as a district judge can or may do, in the execution of the criminal laws of this State; and said courts shall have and exercise appellate jurisdiction, and the same general control over inferior tribunals in said counties in criminal cases, as is now exercised by the district courts; and all appeals from the judgments of said courts herein established shall be to the Supreme Court, in the same manner and under the same regulations as are now, or may hereafter be provided by law for appeals in criminal cases from district courts.

Sec. 2. Said courts and the judge thereof shall have power to issue a writ of habeas corpus and such other

writs as may be necessary to enforce their own proper jurisdiction.

Sec. 3. The said courts in each city shall have a seal similar to those of the district courts, upon which shall be engraved the words, "Criminal Court of ———," (the blank to be filled with the name of the proper city) an impression of which seal shall be attached to all writs and other process, except subpoenas, issuing from said court; and shall be used in the authentication of all official acts of said court, or the clerk thereof; and certified copies of all orders, proceedings, judgments and other acts of said court, under the hand of the clerk thereof, attested with the seal of the court, taken from the minutes and records thereof, shall be admissible in evidence in all courts of this State, in like manner as similar certified copies from district courts are now or may hereafter be admissible.

Sec. 4. There shall be appointed by the Governor, by and with the advice and consent of the Senate, a judge of said courts, who shall hold his office for the term of eight years, unless this act shall be sooner repealed; and shall be removable in the same manner as judges of the district courts. Should a vacancy occur in said office during the recess of the Senate, the Governor shall fill the same by appointment, which shall be sent to the Senate within ten days after the assembly of that body, and if not confirmed, the office shall immediately become vacant.

Sec. 5. The terms of said court shall be held as follows: At the city of Palestine, on the second Monday of January, May and September, and shall continue in session three weeks; at Marshall, on the first Monday in February, June and October, and shall continue in session three weeks; at Jefferson, on the fourth Monday in February, June and October, and shall continue in session three weeks; and at Tyler, on the fourth Monday in March, July and November, and shall continue in session three weeks.

Sec. 6. The trials and proceedings in said courts shall be conducted according to the laws in force governing the rules of pleading, practice and evidence in the district courts; and the regulations of the Penal Code, Code of Criminal Procedure and all other laws with reference to criminal practice and procedure, to fines and forfeitures, to grand and petit jurors, shall be applicable to said courts.

Sec. 7. All criminal business pending in the district courts of Marion, Harrison, Smith and Anderson counties, shall be transferred to said criminal courts, at the first term thereof in their several respective counties, and after that date, said criminal courts shall have and exercise exclusive jurisdiction and control thereof, the same as if originally instituted in said courts.

Sec. 8. It shall be lawful for the judge of said courts to exchange or alternate with any district judge, as provided by law in criminal matters; but said judge shall not practice in any court of the State during the time he holds said office.

Sec. 9. The clerks of the district courts, and the sheriffs of the respective counties, and the district attorneys of the districts in which such cities are situated, shall be the clerks, sheriffs and district attorneys of said courts, under the same rules and regulations as are now or may hereafter be provided by law, for their official acts in the district courts of the State, and they shall be entitled to demand and receive the same fees for official services in said courts as they are now entitled by law to receive in criminal matters in the district courts, and when there is present no district attorney, the judge may appoint one pro tem.

Sec. 10. The judge of the criminal courts herein established shall receive an annual salary, the same as that received by a judge of the district court, to be paid in the same manner as the salaries of judges of the district courts are paid.

Sec. 11. Whenever the judge of said courts may be legally disqualified from presiding on the trial of any cause pending therein, the venue of said cause shall be changed to the district court of the county wherein said cause is pending, to be therein proceeded with in accordance with law.

Sec. 12. All laws and parts of laws in conflict herewith are hereby repealed, and this act take effect and be in force from and after its passage.

Approved February 18th, 1875.

CHAPTER XXXIV.

An Act making an appropriation to pay Richardson, Belo & Company for certain public printing therein mentioned.

Whereas, Richardson, Belo & Company, at the instance and upon the request of John Cardwell, then public printer, did do the public printing for the Department of Education for the year A. D. one thousand eight hundred and seventy-three, to the amount of eight thousand four hundred and eighty-six dollars, as per account rendered; and

Whereas, Said amount is still due and unpaid; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of eight thousand four hundred and eighty-six (\$8,486) dollars be and the same is hereby appropriated out of any money in the Treasury belonging to the school fund, not otherwise appropriated, to be drawn upon the warrant of the Comptroller, for the payment of the said claim.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved February 18th, 1875.

CHAPTER XXXV.

An Act to carry into effect Section 24 of Article 5 of the Constitution by defining the offenses of non-feasance, mis-feasance and mal-feasance in office, and providing penalties therefor.

Section 1. Be it enacted by the Legislature of the State of Texas, That any justice of the peace, or member of a county court, commissioned or acting as such in any county of this State, who shall fail, neglect or refuse to perform regularly any of the duties required of him as such officer by the constitution and laws of this State; or who shall, without good cause, absent himself for any length of time from his usual place of residence and business, shall be deemed guilty of non-feasance in office, and upon conviction thereof, after indictment in any court of competent jurisdiction, shall be fined not less than ten dollars and not more than one hundred dollars, and shall be removed from office by order duly entered upon the minutes of said court;

provided, that sickness or necessary absence for a period not longer than one month shall be good cause, as provided in this section; and provided further, that in addition to the other provisions of this section, habitual drunkenness and such degree of ignorance as renders said officer incompetent to discharge the duties of his office, shall be deemed non-feasance in office.

Sec. 2. Any justice of the peace, or member of a county court, commissioned or acting as such in any county of this State, who shall willfully or knowingly fail or refuse to perform any of the duties required of him as such officer by the constitution and laws of this State; or who shall negligently, ignorantly or willfully vote for or assent to the approval or payment or allowance of any bill, demand or claim, of any nature whatsoever, against the county in which he holds office, which said bill, demand or claim, is not in accordance with some pre-existing law, or which is not a just and lawful claim against said county, or who shall negligently, willfully or knowingly make, approve or assent to any obligation or contract by which the said county may be or is intended to be bound in any manner whatsoever; or who shall knowingly or willfully fail or refuse to grant, allow or render to any person, any right he may have or be entitled to under the constitution or laws of this State, in the court of any such justice, or in the county court of his county, shall be deemed guilty of mis-feasance in office, and upon conviction thereof, after indictment in any court of competent jurisdiction, shall be fined in a sum not less than ten dollars and not more than five hundred dollars, and may in addition thereto, in the discretion of the jury, be confined in the county jail not more than thirty days; and he shall be removed from office by order entered upon the minutes of said court.

Sec. 3. Any justice of the peace, or member of a county court, commissioned or acting as such in any county of this State, who shall fraudulently or corruptly fail or refuse to perform any of the duties required of him as such officer by the constitution or laws of this State, or who shall fraudulently or corruptly refuse or fail to grant, allow or render to any person any right or privilege, in any court of such justice or county court, which he may have, or may be entitled to under the constitution or laws of this State; or who shall fraudulently or corruptly vote for or assent to the approval, allowance or payment of any bill,

demand or claim, of any nature whatsoever, against the county in which he holds office; or who shall fraudulently or corruptly make, approve or assent to, any obligation or contract by which said county may be, or is intended to be bound in any manner; or who shall negligently, willfully, fraudulently or corruptly vote for, or approve or assent to, the levy of any tax whatsoever, not in accordance with law, upon the property or occupations of the citizens of his said county, shall be deemed guilty of mal-feasance in office, and upon conviction thereof, after indictment in any court of competent jurisdiction, shall be fined not less than twenty-five dollars, nor more than five thousand dollars, and may, in addition thereto, within the discretion of the jury, be confined in the State penitentiary for a term not exceeding five years; and he shall be removed from office by order duly entered upon the minutes of said court; provided, that when an appeal is taken from such judgment, the said officer shall be suspended from office.

Sec. 4. All the provisions of this act shall apply to the officers herein mentioned, whether acting individually as justices of the peace, or individually or collectively, as members of a county court.

Sec. 5. All laws or parts of laws in conflict herewith be and the same are hereby repealed, and this act shall take effect thirty days after its passage.

Approved February 18th, 1875.

CHAPTER XXXVI.

An Act regulating the sale of land under executions and judicial decrees.

Section 1. Be it enacted by the Legislature of the State of Texas, That hereafter when any land is advertised or sale by any sheriff or other officer under a decree of ourt or execution, the defendant or defendants in such writ, in whom the legal or equitable title to said land may be vested, shall have the right to present to said sheriff or other officer making said sale, a plat of said land as actually surveyed in lots of not less than forty acres by the county surveyor of the county wherein said premises is situated, which lots shall be numbered, and said plat shall also be accompanied by the field notes of each lot, with the

certificate of said county surveyor that the same are correct; and the defendant or defendants in said writ aforesaid shall have the right to designate the lot or lots which shall be first sold.

Sec. 2. That when a sufficient number of said lots are sold to satisfy the judgment, interest and cost in the case in which said writ or decree issued, said sale shall cease at the request of said defendant or defendants.

Sec. 3. That the expenses of such survey and all other expenses attending the sale of said land in lots as herein provided for, shall be paid by the defendant, and shall in no case constitute any additional cost in said case.

Sec. 4. That the right of plaintiffs to a sale of land under executions and decrees of court shall in no case be delayed by the provisions of this act, but that said sale shall be made on the day advertised.

Sec. 5. That this act shall take effect and be in force from and after its passage.

Approved February 22nd, 1875.

CHAPTER XXXVII.

An Act to amend an act entitled "An Act to amend an act entitled 'An Act to adopt and establish a penal code for the State of Texas,' " approved August 26th, 1856. Approved October 18th, 1871.

Section 1. Be it enacted by the Legislature of the State of Texas, That Title XXI, Chapter II of an act entitled "An Act to adopt and establish a penal code for the State of Texas," approved August 26th, 1856, be amended so as to read as follows: "Article 784. If any person shall threaten to take the life of a human being, or to inflict upon any human being any serious bodily injury, he shall be punished by confinement in the penitentiary for a period of not less than one year, nor more than five years, or by fine of not less than five hundred dollars, nor more than two thousand dollars." "Article 785. In order to render a person guilty of the offense provided for in this chapter, it is necessary that the threat be seriously made." "Article 786. It is for the jury to determine in every case of prosecution under this chapter, whether the threat was seriously made, or was merely idle and with no intention

of executing the same." "Article 787. A threat that a person will do any act merely to protect himself or to prevent the commission of some unlawful act by another, does not come within the meaning of this chapter."

Sec. 2. That this act take effect and be in force from and after its passage.

Approved February 22nd, 1875.

CHAPTER XXXVIII.

An Act to amend section one of an act entitled "An Act for the relief of railroad companies indebted to the State for loans from the special school funds."

Section 1. Be it enacted by the Legislature of the State of Texas, That section one of "An Act for the relief of railroad companies indebted to the State for loans from the special school fund," be so amended as hereafter to read and be as follows: "Section one, that any rail road company indebted to the State for loans from the special school fund may avoid the sale of its rail road for the non-payment of principal or interest, by the payment into the Treasury of the State on the first day of November, A. D. 1870, of six months interest on the aggregate amount due on account of said loans, principal and interest, as said aggregate amount stood on the first day of May, A. D. 1870, and by the payment in addition on said first day of November of one per cent. upon said aggregate amount to be applied toward the sinking fund provided for by existing laws in respect to said loans; and by continuing to pay into the Treasury of the State six months interest and one per cent. on account of said sinking fund, semi-annually thereafter, to-wit: on the first day of May and November in each year, provided that any rail road company to entitle itself to the benefits of this act shall keep its road in good repair and in running order, with sufficient rolling stock thereon, and shall run and operate said road; and provided further, that should any rail road company not have its road in good repair and in running order, with sufficient rolling stock thereon, and not be running and operating said road, such company shall begin the repair of its road within six months from the passage of this act, and shall complete the

repairs on its entire road and put the same in good running order with sufficient rolling stock thereon; and shall begin to run and operate its entire road within twelve months from the passage of this act.

Sec. 2. That this act take effect from and after its passage.
Approved February 22nd, 1875.

CHAPTER XXXIX.

An Act regulating the times of holding the terms of the District Court in the Fifteenth Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas, That the terms of the District Court in and for the several counties composing the Fifteenth Judicial District, shall hereafter be held as follows: In the county of Webb, on the fourth Monday in March and fourth Mondays in June and October, and may continue in session two weeks; in the county of Zapata, on the second Monday after the fourth Monday in March and fourth Mondays in June and October, and may continue in session one week; in the county of Starr, on the third Monday after the fourth Monday in March and fourth Mondays in June and October, and may continue in session two weeks; in the county of Hidalgo, on the fifth Monday after the fourth Monday in March and fourth Mondays in June and October, and may continue in session one week; in the county of Cameron, on the sixth Monday after the fourth Monday in March and fourth Mondays in June and October, and may continue in session three weeks.

Sec. 2. That the unorganized county of Encinal, be attached for judicial purposes to the county of Webb.

Sec. 3. That all writs and process issued and returnable to the terms as heretofore provided, shall be deemed and held returnable to the several terms as herein prescribed; and that this act take effect from and after its passage.

Approved February 25th 1875.

CHAPTER XL.

An Act prescribing the times of holding the District Courts in the Thirteenth Judicial District of the State of Texas, and to repeal "An Act passed by the Fourteenth Legislature and approved May 1st, A. D. 1874."

Section 1. Be it enacted by the Legislature of the State of Texas, That the District Courts of the Thirteenth Judicial District shall be holden at the times hereinafter specified, to-wit: In the county of Parker, on the first Mondays in October, February and June, and may continue in session three weeks; in the county of Jack, on the fourth Mondays in October, February and June, and may continue in session two weeks; in the county of Young on the second Mondays in November, March and July, and may continue in session one week; in the county of Palo Pinto, on the third Mondays in November, March and July, and may continue in session two weeks; in the county of Hood, on the first Mondays in December, April and August, and may continue in session three weeks; in the county of Johnson on the fourth Mondays in December, April and August, and may continue in session until the business is disposed of.

Sec. 2. That for judicial purposes the counties of Throckmorton and Haskell are hereby attached to the county of Young, and the county of Stephens to the county of Palo Pinto, for the same purpose. That no writ or process, nor bail bond or recognizance executed, or entered into before the courts whose terms are changed by this act shall thereby be invalid, but such persons shall be bound to appear and answer, or be held bound at the terms of the courts as fixed by this act, the same as if no change had been made in the terms of said courts.

Sec. 3. That an act passed by the Fourteenth Legislature and approved on the first day of May, A. D. 1874, providing for the holding of courts in the Thirteenth Judicial District, be and the same is hereby repealed, and that this act take effect from and after the date of its passage.

Approved February 25th 1875.

CHAPTER XLI.

An Act to amend an act approved May 2d, 1874, entitled: "An Act to amend an act approved March 4th 1871, entitled; An Act to amend an act prescribing the time of holding the District Courts in the several judicial districts of this-State," approved August 10th 1870.

Section 1. Be it enacted by the Legislature of the State of Texas, That the second section of the above recited act is hereby amended so as to read as follows: That the district courts of the thirty-second district shall be holden at the times hereinafter specified, to-wit: in the county of Williamson on the first Mondays in January, May and September, and may continue in session four weeks; in the county of Burnet on the first Monday after the fourth Mondays in January, May and September, and may continue in session two weeks; in the county of Llano, on the third Monday after the fourth Mondays in January, May and September, and may continue in session one week; in the county of San Saba, on the fourth Monday after the fourth Mondays in January, May and September, and may continue in session one week; in the county of Brown, on the fifth Monday after the fourth Mondays in January, May and September, and may continue in session one week; in the county of Lampasas on the sixth Monday after the fourth Mondays in January, May and September, and may continue in session until the business is completed.

Sec. 2. That all process, bonds, recognizances, and other papers, process or thing depending in any manner upon the time fixed for holding the courts in said district, shall be held to be due, returnable and in all things answerable unto, at the times and places fixed for the holding of the said district courts to the same effect and purpose as if no change had taken place.

Sec. 3. This act shall take effect from and after the first of September, 1875.

Approved February 25th, 1875.

CHAPTER XLII.

An Act to amend the second section of "An Act to reorganize the Seventh, Eighth and Eleventh Judicial Districts," and to fix the time of holding the courts therein.

Section 1. Be it enacted by the Legislature of the State of Texas, That section two of "An Act to reorganize the Seventh, Eighth and Eleventh Judicial Districts of the State of Texas," approved April 17, 1874, be and the same is hereby amended, so as to read as follows: Section 2. That the District Courts of the Seventh Judicial District shall be holden at the time hereinafter specified, to-wit: In the county of Bowie, on the last Mondays in February, June and October, and may continue in session two weeks; in the county of Titus, on the second Mondays in March, July and November, and may continue in session three weeks; in the county of Cass, on the first Mondays in April, August and December, and may continue in session six weeks.

Sec. 2. That this act take effect from and after its passage.
Approved February 25th, 1875.

CHAPTER XLIII.

An Act authorizing the Commissioner of the General Land Office to employ additional help for the business of said office.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be and is hereby authorized to employ eight (8) additional draftsmen, at salaries not to exceed twelve hundred dollars each per annum; and that said Commissioner shall discharge any one, or more, or all of said draftsmen at any time when he may think their services are no longer required.

Sec. 2. That said Commissioner be and is hereby authorized to employ one night watchman for said office, at a salary not to exceed six hundred dollars per annum.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved February 27th, 1875.

CHAPTER XLIV.

An Act for the relief of such counties and incorporated cities or towns as have voted donations in aid of the construction of railroads or other works of internal improvement, under the provisions of an act entitled "An Act to authorize counties, cities and towns to aid in the construction of railroads and other works of internal improvement," approved April 12, A. D. 1871, which said act was repealed on the twenty-second of April, A. D. 1874.

Whereas, It [is] provided in the sixth section of said repealed act, among other things, that no bonds shall be issued until the county court shall have first levied an annual tax upon all real and personal property situated in the county, or until the mayor and aldermen of the incorporated city or town shall have first levied an annual tax upon all real and personal property, situated in the incorporated city or town; which shall be sufficient to pay the annual interest, and not less than two per centum annually of the principal of said bonds, besides the expenses of assessing and collecting the same; and

Whereas, It is further provided in said sixth section of said act, that said levy shall continue in full force until the whole amount of the principal and interest of said bonds shall have been fully paid; and

Whereas, It is provided in said act that the bonds, so issued, shall be paid off in twenty years; and

Whereas, A levy, which would now pay the interest and two per centum of the principal, annually, on said bonds, would, with the increase of property and its value, pay off said bonds, in much less than twenty years, and will impose an unnecessary burden on the taxpayers; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That from and after the passage of this act, the State Comptroller shall be and is hereby required, on the application of the county court of any county, or of the mayor or aldermen of any city or town, which may have issued such bonds, as are provided for in said repealed act of April 12, A. D. 1871, to reduce the amount of the annual levy of taxes for said purpose, to any sum not below what will be necessary to pay the annual interest and two per centum annually of the principal of said bonds; provided, that nothing herein contained shall be construed to release such county, incorporated city or

town, from liability to pay the whole of the principal and interest on said bonds, in said period of twenty years, or other period of time specified and agreed upon for the payment of the same.

Sec. 2. That such application to the Comptroller for the reduction of the amount of the levy of such tax, shall be evidenced by a certified copy of the order of such county court, signed by the presiding justice and attested by the signature and seal of the clerk thereof; or by a certified copy of the order of the mayor and board of aldermen, or common counsel, signed by the mayor, and attested by the signature and seal, if there be one, of the clerk, secretary or recorder of said city or town.

Sec. 3. That this act take effect from its passage.

Approved February 27th, 1875.

CHAPTER XLV.

An Act to amend section 324 of "An Act prescribing the mode of proceeding in the District Courts in matters of probate," approved August 15, 1870.

Section 1. Be it enacted by the Legislature of the State of Texas, That section 324 of "An Act prescribing the mode of proceeding in District Courts in matters of probate," approved August 15, 1870, be so amended as to read as follows: A proceeding for the appointment of a guardian of the estate of a minor shall be commenced in the county where the parents reside or where the estate of the minor is situated.

Sec. 2. That this act take effect from its passage.

Approved March 4th, 1875.

CHAPTER XLVI.

An Act to amend the 12th section of an act entitled, "An Act to regulate ferries," approved January 23d, 1850.

Section 1. Be it enacted by the Legislature of the State of Texas, That hereafter the 12th section of an act entitled "An Act to regulate ferries," approved January

23d, 1850, shall read as follows: Section 12. Every licensed ferryman shall at all times keep good and sufficient boats for the use of such ferry, and shall keep the banks on each side of the ferry in good repair, and so graded and leveled that the rise shall not exceed one foot in every seven feet from the water's edge to the top of the bank; and shall give ready and due attendance on all passengers, horses, wagons and other property; and any owner of a licensed ferry who shall fail to comply with the requirements of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction, shall be fined a sum not less than ten nor more than one hundred dollars; and shall also be liable to any aggrieved party in damages to any sum that may be awarded by a court of competent jurisdiction.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 4th, 1875.

CHAPTER XLVII.

An Act to add the counties of Shackelford, Taylor and Callahan to the Thirty-fourth Judicial District, and to prescribe the times of holding court in said district.

Section 1. Be it enacted by the Legislature of the State of Texas, That the county of Shackelford is hereby added to the thirty-fourth judicial district, and shall henceforth constitute a part of said district, and that the counties of Taylor and Callahan are hereby attached to the county of Shackelford for judicial purposes.

Sec. 2. Be it further enacted, That the district courts of the thirty-fourth judicial district shall be held as hereinafter prescribed, to-wit: In the county of Bell on the first Mondays in January and September, and may continue in session four weeks; in the county of Coryell on the first Mondays in February and October, and may continue in session two weeks; in the county of Hamilton on the third Mondays in February and October, and may continue in session one week; in the county of Comanche on the fourth Mondays in February and October, and may continue in session two weeks; in the county of Eastland

on the fifth Mondays after the first Mondays in February and October, and may continue in session one week; in the county of Shackelford on the sixth Mondays after the first Mondays in February and October, and may continue in session one week; in the county of Erath on the seventh Mondays after the first Mondays in February and October, and may continue in session two weeks.

Sec. 3. Be it further enacted, That the district court shall be held in said judicial district as follows, to-wit: In the county of Bell on the first Monday in May, and may continue in session one week; in the county of Coryell on the second Monday in May, and may continue in session one week; in the county of Hamilton on the third Monday in May, and may continue in session one week; in the county of Comanche on the fourth Monday in May, and may continue in session one week; in the county of Eastland on the fourth Monday after the first Monday in May, and may continue in session one week; in the county of Shackelford on the fifth Monday after the first Monday in May, and may continue in session one week; in the county of Erath on the sixth Monday after the first Monday in May, and may continue in session one week.

Sec. 4. That this act shall take effect and be in force on the first day of April, A. D. 1875; and all laws in conflict with this act are hereby repealed.

Approved March 4th, 1875.

CHAPTER XLVIII.

An Act for the relief of persons interested in the University lands, sold under the provisions of an act entitled "An Act for the sale and disposition of the University lands," approved August 30, 1856, and an act amendatory thereof, approved November 12, 1866.

Section 1. Be it enacted by the Legislature of the State of Texas, That the time for the payment of any sum or sums of money now due, or hereafter to become due, on and for any of the lands heretofore sold under an act entitled "An Act for the sale and disposition of University lands," approved August 30, 1856, and the act amendatory thereof, approved November 12, 1866, be and the same is hereby extended until the first day of March, 1876; pro-

vided, that no person shall be entitled to the benefits of this act unless the terms and conditions herein provided are strictly complied with; that to entitle the purchaser, his or her heirs or assigns, to such extension of time as above provided, he, her or they, shall, on or before the fifteenth day of May, 1875, enter into a new obligation, with two or more sufficient securities, to be delivered to and approved by the agent, hereinafter provided for, securing to the State such sum or sums of money due or owing for said lands, which said obligation shall conform in all respects to the subsisting obligation, except as to the extension of time.

Sec. 2. That if any purchaser of said lands, his or her heirs or assigns, shall fail to pay the amount due or to become due on the purchase of said land as aforesaid, or fail to comply with the first section of this act on or before the fifteenth day of May, 1875, said purchase and sale shall become null and void, and the rights of said purchasers failing, shall become forfeited, and in case such failure is made, as aforesaid, within the time prescribed, then the occupant or occupants of any of said lands, which have been forfeited as aforesaid, may acquire title to the same; provided, he, her, or they, shall, on or before the fifteenth day of June, 1875, pay off and discharge the amount of money which may be due or owing from the said purchaser or purchasers, or that said occupants shall enter into bonds or obligations to pay the same by the fifteenth day of June, 1875, in the manner and under the same terms, restrictions and conditions as are provided for the said purchasers in the first section of this act.

Sec. 3. That whenever satisfactory proof is made to the Commissioner of the General Land Office that any of said purchasers or occupants have paid for said lands, or any tract thereof, under the provisions of this act, and the acts herein above referred to, said Commissioner shall issue and deliver to such person as may have paid for the same, a patent therefor, as required by law for the patenting of other lands of the State.

Sec. 4. That the Governor is hereby authorized and required to appoint an agent for the county of Grayson, and one for the counties of Fannin and Hunt, and one for the county of McLennan, to carry out the provisions of this act, which said agents shall each enter into a bond with two or more good and sufficient securities, to be approved

by the State Treasurer, in an amount at least double the probable amount of money which may come into their hands as such agents, conditioned that they will perform all the duties incumbent upon them as such agents, and make at such times as the Treasurer of the State may require, due returns of their acts under the provisions of this act, and will pay over to the State Treasurer, all moneys received by them for said lands. The Treasurer shall furnish said agents with all the necessary blanks, obligation bonds and instructions to carry out the provisions of this act.

Sec. 5. That said agents respectively shall visit the county seats of the counties for which they are appointed, at such times as they may designate for the purpose of carrying out the provisions of this act, and shall publish in the newspaper having the largest circulation in each county respectively the substance of this act, and that they are appointed such agents and notify all parties interested, when and where they may be found for the transaction of the business herein provided for, which said publication and notice shall be published for at least three consecutive weeks before the time appointed for visiting each county seat, that they shall make monthly returns of their actions as such agents to the State Treasurer, and deliver to the State Treasurer all the new obligations which may be made as provided for by this act, and shall pay to the State Treasurer at least once in each month, all the moneys received by them for said lands during the time he may act as said agent; that said agents shall be entitled to receive as a compensation for their services, an amount equal to three per centum on all amounts paid to them and on all obligations taken by them, which shall be paid by the party making the payment or entering into such obligation.

Sec. 6. That if the purchasers or occupants shall fail to pay the amounts due or give their obligation as required by sections one and two of this act by the fifteenth day of June, 1875, the agent or agents shall, under the direction of the Governor, proceed to collect any amount that may be due on any of said purchasers [purchases], as provided by the laws under which said land was sold. The agents respectively shall be entitled to the following fees: For advertising, two dollars (\$2.00); making deed, two dollars (\$2.00); and a commission of four per cent. on the amount collected.

If any of said lands should be purchased by the State, the agents shall be entitled to the same fees and commissions as provided for in this section, to be paid out of any university funds; provided, the State shall not be subject to the payment of any fees or expenses under this act except in cases where the land is sold and purchased by the State; and provided further, the State does not relinquish the vendors lien on any of these lands by reason of the bond and security required by this act.

Sec. 7. That this act take effect and be in force from and after its passage.

Approved March 4th, 1875.

CHAPTER XLIX.

An Act to provide for the trial and removal from office of Mayors and Aldermen of incorporated towns and cities.

Section 1. Be it enacted by the Legislature of the State of Texas, That the mayor and aldermen of any incorporated town or city of this State may be tried in the manner hereinafter provided, and removed from office for mal-feasance, non-feasance or mis-feasance in office, or for a willful violation of any of the ordinances of such town or city; for habitual drunkenness, incompetency, or for such other causes as may be prescribed by the ordinances of such town or city.

Sec. 2. That whenever charges are preferred and filed with the mayor of such town or city, by any person against either of the aldermen, it shall be the duty of such mayor to have the accused duly served with a copy of such charges, and shall set a day to inquire into the truth of such charges, and shall notify the accused and the other aldermen and the witnesses for and against the accused to be present; that the mayor and said other aldermen shall constitute a court to try and determine the case, and may continue the investigation from day to day upon proper showing to enable the accused or prosecutor to get material evidence before the court.

Sec. 3. That when charges are so preferred against the mayor of any such town or city, they may be filed with either of the aldermen, whose duty it shall be to call the

board of aldermen together, and when so assembled they shall proceed to elect one of their number to preside during said investigation, and for the purposes of said trial; the presiding officer so elected shall perform the duties of mayor, and the trial shall proceed as provided for in section two of this act.

Sec. 4. The accused shall have the right to be heard in person or by counsel, and the corporation shall likewise be represented by counsel if the court desire it.

Sec. 5. Upon the conclusion of the investigation and argument of the case, the vote shall be taken upon each charge and specification, and if two-thirds of the members of the court present vote to sustain either of the charges against the accused, it shall be the duty of the presiding officer to enter up the judgment of the court in which he shall record the vote of each member of the court upon the several charges and specifications; and shall also include in said judgment an order removing the accused from his office and declaring the same vacant; but if the vote is otherwise, the accused shall be declared not guilty, and judgment entered accordingly.

Sec. 6. That the officers so removed shall not be eligible to re-election for two years from the date of such removal.

Sec. 7. That this act shall not apply to any town or city in this State except such as are incorporated under the general laws of this State.

Sec. 8. That this act take effect and be in force from and after its passage.

Approved March 6th, 1875.

CHAPTER L.

An Act to regulate the collection of taxes assessed in the year 1874, in that portion of the territory of Rusk county which was attached to the county of Gregg by an act of the Legislature, approved April 30, 1874.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Sheriff of Rusk county be and is hereby released from all responsibility of collecting and accounting for the portion of the State and county taxes assessed in the year 1874, not collected by him at the passage of this act, against the citizens residing in that portion

of the territory of said Rusk county, attached to the county of Gregg by an act of the Legislature, passed April the 30th, A. D. 1874.

Sec. 2. That the sheriff of Gregg county is authorized and required to collect the tax contemplated in the first section of this act, and make settlement for same as in other cases provided by law; provided, nothing herein contained shall release said citizens of that portion of Gregg county detached from Rusk county, from the payment of their portion of the bonded, funded or other indebtedness of Rusk county which may have accrued prior to the 30th of April, 1874.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved March 6th, 1875.

CHAPTER LI.

An Act supplementary to and amendatory of the several acts authorizing the sale and disposition of the University lands in the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the settlers on any of the University lands lying within the counties of McLennan and Hill, and conflicting with the grant in the name of Joachin Moreno, shall not be compelled to pay the amounts due on said land until the suit pending in behalf of said grant shall have been decided, and title to said land settled.

Sec. 2. That this act shall take effect and be in force from and after its passage.

Approved March 6th, 1875.

CHAPTER LII.

An Act to amend the fourth, eleventh and twelfth sections of an act entitled, "An Act to establish, organize and define the powers of the criminal district court in, and for the cities of Dallas, McKinney and Sherman," approved June 4th, 1873; approved April 17th, 1874.

Section 1. Be it enacted by the Legislature of the State of Texas, That the fourth section of the above re-

cited act shall hereafter read as follows: "Section four. Said judge shall hold a term of said court in the city of Dallas, commencing on the second Mondays in April, August and December, and continue in session six weeks, unless the business is sooner disposed of; and in the city of McKinney, commencing on the first Mondays in February, June and October, and continue in session four weeks, unless the business is sooner disposed of; and in the city of Sherman, commencing on the first Mondays in March, July and November, and to continue in session four weeks, unless the business is sooner disposed of."

Sec. 2. That the eleventh section of the above recited act shall hereafter read as follows: "Section eleven. It shall be lawful for the judge of said court to exchange or alternate with any district judge, as provided for by the Constitution and laws of the State of Texas."

Sec. 3. That section twelve of the above recited act be and the same is hereby repealed.

Sec. 4. That all laws and parts of laws in conflict with this act are hereby repealed.

Sec. 5. That this act take effect and be in force from and after its passage.

Approved March 6th, 1875.

CHAPTER LIII.

An Act regulating the affairs of the Deaf and Dumb and Blind Asylums.

Section 1. Be it enacted by the Legislature of the State of Texas, That from and after the passage of this act, it shall be the duty of the Governor to appoint the Superintendent and a board of five trustees for the Deaf and Dumb and Blind Asylums.

Sec. 2. The board of trustees shall meet regularly at their respective asylums on the first Monday in each month, and shall then and there examine the monthly accounts of the Superintendent, and when found correct and reasonable, shall approve them; it shall also be their duty to make all the contracts and necessary arrangements for the erection of buildings of any kind about the premises, or for any additions to the present buildings.

Sec. 3. All moneys appropriated by the Legislature

for the erection of buildings, out-houses and enclosures for grounds, shall be subject to requisition by the board of trustees to the amount necessary to cover any work done under contract for said asylum; said amount, however, not to be drawn until the work is completed and approved by the trustees, who shall file a statement of the work done, together with the itemized account of the Architect, with the Comptroller, who shall thereupon draw a warrant upon the State Treasurer, in favor of the board of trustees, for the amount specified; and it shall be the duty of the trustees to take receipts in full for all moneys paid by them, filing a duplicate of said receipt with the comptroller.

Sec. 4. The Superintendent shall be the administrative head of the asylum, and as such shall appoint the subordinate officers and the necessary number of teachers for the school, and the employees; he shall be responsible for their conduct, and therefore shall have the power, at his discretion, to remove any officer, teacher or employee who does not do his or her duty, or whose conduct is such as shall endanger the morals of the pupils or the best interests of the Asylum; the Superintendent shall be the purchasing agent for the asylum, and shall, at the regular meetings of the board of trustees, present his itemized monthly accounts for approval; said accounts must be made out in duplicate, one of which must be filed with the Comptroller, who shall thereupon draw his warrant, in favor of the party for whom the account is made.

Sec. 5. The Superintendent shall, as the administrative head, establish such rules and regulations for the government of the establishment as in his judgment may be best suited for the interests and good government of all who may be placed in his charge; he shall be held responsible for the proper care of the buildings, the furniture, and the enclosed grounds; he shall have the power to increase or diminish the salaries of employees, subject to the approval of the board of trustees, and that of the officers and teachers shall only be effected subject to the approval of the board of trustees.

Sec. 6. The board of trustees of each of said Asylums or Institutions, whenever they may discover, or be informed of, any misconduct or maladministration, on the part of said Superintendents, shall make complaint thereof to the Governor; and notice of such complaint shall be given to said Superintendent; and the Governor shall enquire into

the same, and, if the complaint be sustained, he shall have the power to remove said Superintendent from his office, and appoint a successor; and he shall report his action to the next Legislature, which may be in session after said removal, and members of the boards of trustees, may be removed for the same causes, and in the same manner, upon complaint of the Superintendents, and successors may be appointed to such trustees as may be removed.

Sec. 7. That all laws or parts of laws in conflict with this act are hereby repealed, and that this act be in force from its passage.

Approved March 6th, 1875.

CHAPTER LIV.

An Act to appoint Trustees to take charge of property bequeathed to the State of Texas for certain purposes, by Oscar L. Holmes, and to carry into effect said bequest.

Whereas, Oscar L. Holmes, late of Nacogdoches county, Texas, in his last will and testament, made the following bequest, to-wit: "Sixth, I give and bequeath the residue of my property to the State of Texas to aid in the maintenance and support of persons wounded and maimed in our defense—in the present struggle of our Confederacy against the United States Government; those from Nacogdoches county, Texas, to have the preference." Therefore:

Section 1. Be it enacted by the Legislature of the State of Texas, That Payton F. Edwards and Milton Mast, of Nacogdoches county, and Joel V. Massey, of San Augustine county, be and are hereby appointed Trustees to take charge of said property in behalf of the State, for the use and benefit of the legatees in said will.

Sec. 2. That the said Trustees shall qualify by giving bond in such amount, and with such conditions as the district court of Nacogdoches county may require; and they shall have the right to take possession of the property devised, and to institute all necessary suits for the same.

Sec. 3. That should any of said Trustees fail to qualify and assume the trust herein reposed, or should a vacancy occur at any time by reason of death, removal, or other-

wise, in said Board of Trustees, then it shall be lawful for the district court of Nacogdoches county to appoint some other person or persons to fill such vacancy.

Sec. 4. That the laws of this State regulating proceedings in matters of probate, shall regulate the sale and distribution of said property so far as practicable.

Sec. 5. That any person who enlisted into the Confederate service from the county of Nacogdoches, Texas, and who was "wounded and maimed" in such service, may apply to the district court of Nacogdoches county for an allowance to aid in his support and maintenance, and the court shall allow such an amount as may appear to be right, and enter the same on the minutes of the court, and such order shall be sufficient to establish such claim, and shall be paid by said Trustees out of the fund raised by the sale of the aforesaid property.

Sec. 6. That the Trustees shall convert all of said estate into money, pay off all claims allowed by the said district court, and should any residue remain, it shall be paid into the State Treasury.

Sec. 7. That an act to appoint an agent to take charge of property bequeathed to the State of Texas for certain purposes, by Oscar L. Holmes, and to carry into effect said bequest, passed April 24th, 1873, is hereby repealed.

Sec. 8. That this act take effect and be in force from and after its passage.

Approved March 8th, 1875.

CHAPTER LV.

An Act regulating and providing for the collection of fees by the Clerk of the Supreme Court.

Section 1. Be it enacted by the Legislature of the State of Texas, That in every State case of a less grade than felony, in which an appeal is taken to the Supreme Court and the judgment of the court below is affirmed against the defendant, all fees due the clerk of said Supreme Court in said case shall be adjudged against the defendant, and his sureties on his recognizance, for which execution shall issue as in other cases of appeal to the Supreme Court. Should said case be reversed by the Supreme Court and a

new trial be had in the court below, and the defendant convicted, then the costs aforesaid in favor of the Clerk of the Supreme Court shall be taxed by the court below against the defendant, and a certified copy of said bill of costs by the Clerk of the Supreme Court, filed in the court below, shall be sufficient to require said costs to be taxed and collected as other costs against the defendant in the court below. In case the judgment of the court below is affirmed and the costs aforesaid cannot be made out of the defendant and his sureties on his recognizance, then the State shall in such cases pay to the Clerk of the Supreme Court a fee of five dollars, on the certificate of the Chief or presiding Justice of said court.

That said Clerk shall be authorized to demand and receive for any copy of a paper or record in his office, and for recording the opinions of the Justices of said court the same fees as are allowed by law to the clerks of the district courts for similar services.

Sec. 2. All executions for costs of the Supreme Court as authorized by law, shall be returned by the Sheriff to whom they are directed within four months from the date thereof, and in case any Sheriff shall fail or refuse to make such return with the amount of such costs, if he has collected the same within the time prescribed herein, or shall make a false or fraudulent return of any such execution, the Clerk of said Supreme Court may issue citation returnable forthwith to such Sheriff to appear before said Supreme Court and show cause, if any he have, why he has not collected and returned such costs and execution; and failing to show cause, said Supreme Court may enter judgment against such Sheriff and the sureties on his official bond for twice the amount of said costs, together with the costs of such proceeding.

Sec. 3. Sheriffs shall be allowed for all process issued from the Supreme Court served by them, the same fees as are allowed them for similar service upon process issued from the inferior courts.

Sec. 4. This act shall take effect and be in force from and after its passage.

Approved March 9th, 1875.

CHAPTER LVI.

An Act to provide for the re-compilation of an abstract of the located, titled and patented lands in Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office shall have made out and returned to the Comptroller of Public Accounts, as soon as practicable, an abstract of all the titled, patented and located lands in the State of Texas, which may have been patented or titled, or which have been located and surveyed and the certificates and field notes returned to the General Land Office, up to September the first, one thousand eight hundred and seventy-five, which abstract shall designate the grantee and patentee, the amount of the grant, the class to which it belongs, whether headright, bounty, donation, special grant, or pre-emption, date and number of patent, number of certificate, name of grantee of certificate, or name of pre-emption locator, and name of the county in which situated. An abstract number shall also be affixed, but the numbers of the present official abstracts shall be preserved.

Sec. 2. The Commissioner of the General Land Office shall employ one draftsman and two clerks to complete said abstract as soon as possible.

Sec. 3. That the pay of the employees provided for in section two, shall be in conformity with the salaries paid to compiling draftsmen and examining clerks, and the payment of the same shall be provided for in the general appropriation for the General Land Office.

Sec. 4. After compilation of said abstract, the Commissioner of the General Land Office shall make it the special duty of one of his clerks to constantly correct said abstract according to errors discovered, changes by cancellation of patents, changes of county lines, and creation of new counties, and to add all new patented surveys at the date of the patent.

Sec. 5. During the month of August of each year hereafter, the Commissioner of the General Land Office shall have made out and furnished to the Comptroller of Public Accounts a supplemental abstract of all patents that have been issued from his office during the year

ending on the thirty-first day of August, to include all locations filed during the year not patented.

Sec. 6. The Comptroller of Public Accounts is hereby authorized to have one thousand copies of said abstract printed and bound for distribution among those officers of the State and counties whose duties require the use of said abstract. The surplus copies to be sold at a reasonable price to parties applying for them; provided, that if the demand for copies of said abstract shall be greater than the supply provided for by this act, an additional number of five hundred copies may be printed.

Sec. 7. The sum necessary to pay for the printing and binding of said abstract, shall be paid out of the general appropriation made by the Legislature for printing, and all moneys received by the Comptroller, by the sale of said abstract, shall be paid into the Treasury to the credit of said appropriation.

Sec. 8. This act shall take effect and be in force from and after its passage.

Approved March 9th, 1875.

CHAPTER LVII.

An Act regulating the government of the Agricultural and Mechanical College of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor, Lieutenant Governor, Speaker of the House of Representatives, and six directors, one director to be chosen from each Congressional district, who shall be elected by joint ballot of both branches of the Legislature, shall be and the same are hereby constituted a board of directors to superintend, manage and control the Agricultural and Mechanical College of Texas.

Sec. 2. The directors shall be elected every two years, and should any vacancy occur by death, resignation or otherwise, the Governor shall fill the same by appointment, which shall continue until the next election.

Sec. 3. The board of directors shall appoint the president and professors of the college, and such other officers as they may think proper to put the college into successful operation, and shall make such by-laws, rules and regula-

tions for its government as they may deem meet and proper for that purpose, and shall regulate the course of study, rates of tuition, manner of performing labor, and the kind of labor to be performed by the students, together with the course of discipline necessary to enforce the faithful discharge of the duties of all officers, professors and students, and shall have same printed and circulated for the benefit of the people of the State and officers and students of the college.

Sec. 4. The Governor shall be ex-officio president of the board, and shall cause the same to convene whenever he shall deem it expedient to do so for the transaction of business, and a majority shall be sufficient for the transaction of business.

Sec. 5. The Chief Clerk of the House of Representatives and Secretary of the Senate shall forward a certificate to each director within ten days after such election is held, notifying him of his election, and should any director after being elected and notified, fail for sixty days to notify the Governor of his acceptance, his election shall be void, and his place filled again as in other cases.

Sec. 6. The board of directors shall elect a secretary of the board, whose duty it shall be to keep in a well bound book all the proceedings had by this board, and he shall be allowed by said board such compensation as they may allow; provided, that same does not exceed five hundred dollars per annum.

Sec. 7. The six directors shall be allowed the sum of five dollars per day for each day they attend the meeting of directors; provided, no director shall receive for such service more than one hundred dollars per annum.

Sec. 8. The interest on the amount of one hundred and seventy-four thousand dollars, in seven per cent. gold interest bearing frontier bonds of Texas, now in the State Treasury, to the credit of the college, being set apart for for that purpose, shall be drawn by the board of directors on vouchers audited by the board or approved by the Governor and attested by the Secretary, and on filing such vouchers the Comptroller shall draw his warrant on the State Treasury for the same, from time to time, as the same may be needed to pay the directors, officers and professors of the college.

Sec. 9. That this act take effect and be in force from and after its passage.

Approved March 9th, 1875.

CHAPTER LVIII.

An Act to cause the county courts of the several counties in this State to furnish the County Surveyor of each county with office books.

Section 1. Be it enacted by the Legislature of the State of Texas, That the county courts of each county in this State be authorized and required to furnish the county surveyor with record books and all necessary county maps necessary for his office.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 9th, 1875.

CHAPTER LIX.

An Act to legalize and make valid certain process issued from the District Court of Hunt county.

Section 1. Be it enacted by the Legislature of the State of Texas, That all citations, writs and other process issued by the clerk of the district court of Hunt county, in pursuance to law and returnable to said court on the first Monday in July, 1874, and the fourth Monday in June, 1874, be and the same are hereby legalized, and the same shall be deemed and held as valid as though the terms of said court had not conflicted with the term of the district court for Hopkins county, under the provisions of an act entitled an act to reorganize the seventh, eighth and eleventh Judicial Districts of the State of Texas, and to fix the time of holding courts therein, approved April 17th, 1874.

Sec. 2. That this act take effect from its passage.

Approved March 9th, 1875.

CHAPTER LX.

An Act supplemental to and amendatory of "An Act to establish a Criminal Court in the cities of Waco and Marlin, and defining the powers thereof," passed at the first session of the Fourteenth Legislature, and "An Act amendatory of said above recited act," passed at the same session.

Section 1. Be it enacted by the Legislature of the State of Texas, That there is hereby created and estab-

lished a criminal court in the city of Calvert, in the county of Robertson, with concurrent jurisdiction over the county of Robertson, with all such powers as are granted to the criminal court of the cities of Waco and Marlin, in the first and subsequent sections of the act to which this act is amendatory and supplementary.

Sec. 2. That the Judge of the criminal court of Waco and Marlin shall hold the sessions of the criminal court at the city of Calvert, and shall receive the same salary as other district and criminal judges from the State Treasury.

Sec. 3. All criminal business in the district court of the county of Robertson shall be transferred to said criminal court of the city of Calvert at the first term thereof, and after that date said criminal court shall have and exercise exclusive jurisdiction and control thereof as if originally instituted.

Sec. 4. The clerk, sheriff and district attorney of the county of Robertson, shall be respectively clerk, sheriff and district attorney of said criminal court, under the same rules and regulations as are now prescribed by law, and receive the same fees and emoluments now allowed for criminal matter in district courts; and in case of inability of any such officer or deputy to act, the court may appoint a competent person to supply such deficiency.

Sec. 5. Said court shall be holden each year in the city of Calvert, to commence on the first Monday in February, and continue in session three weeks; on the first Monday in June, and continue in session four weeks, and on the first Monday in December, and continue in session four weeks.

Sec. 6. That the tenth section of the act to establish a criminal court in the cities of Waco and Marlin, and all other acts in any wise conflicting with this act, be and the same are hereby repealed; provided, it shall be the duty of the clerk of the district court to transfer the criminal business from said district court to the criminal court created by this act.

Sec. 7. That this act take effect and be in force from and after its passage.

Approved March 9th, 1875.

CHAPTER LXI.

An Act making an appropriation for the per diem pay of members, and the per diem pay of the officers and employees of the second session of the Fourteenth Legislature of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of twenty-five thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the per diem pay of members, and the per diem pay of the officers and employees of the second session of the Fourteenth Legislature of the State of Texas.

Sec. 2. That the certificate of the Secretary of the Senate, approved by the President thereof, or the certificate of the Chief Clerk of the House of Representatives, approved by the Speaker thereof, shall be sufficient evidence to the Comptroller, upon which he shall audit the claims and draw his warrants upon the Treasurer for the respective amounts; and that this act shall take effect from its passage.

Approved March 9th, 1875.

CHAPTER LXII.

An Act to amend an act entitled "An Act to authorize the cancellation of patents in certain cases," approved February 3, 1854.

Section 1. Be it enacted by the Legislature of the State of Texas, That the first section of the above entitled act shall hereafter read as follows: Section 1. Where a patent to land has been or may hereafter through mistake be issued upon any valid claim for land which is afterwards found to be in conflict with any older title, it shall be competent for the owner of such patent of any part of the land embraced therein, and within such conflict, to return the same to the Commissioner of the General Land Office for cancellation, or in case the owner of such land in conflict cannot obtain the patent, then he shall return instead thereof legal evidence of his title to such patent or part

thereof, and in either case he shall make and file with the said Commissioner an affidavit in writing that he is still the owner of the same, and has not sold or transferred it; and should it appear from the records of the General Land Office, or from a duly certified copy of a judgment of any court of competent jurisdiction, before which the title to such land may have been adjudicated, that such conflict really exists, it shall be lawful for him to cancel the patent or such part thereof as shall appear to belong to the party so applying, and deliver a new certificate or other evidence of claim upon which it is issued to the owner for re-location.

Sec. 2. That this act shall take effect and be in force from and after its passage.

Approved March 10th, 1875.

CHAPTER LXIII.

An Act to encourage the construction of canals and ditches for navigation and irrigation.

Section 1. Be it enacted by the Legislature of the State of Texas, That every canal constructed within this State for purposes of irrigation or navigation, of a uniform width of thirty feet, and of a uniform depth of four feet, shall be deemed of the first class; that every canal of a uniform width of fifteen feet, and a uniform depth of four feet, shall be deemed of the second class; that every canal or ditch of a uniform width of nine feet, and a uniform depth of three feet, shall be deemed of the third class; that all other ditches shall be of the fourth class; provided, that no ditch of a less average width than six feet, and of less average depth than two and one-half feet, shall be entitled to the benefits of this act.

Sec. 2. That every canal company heretofore or hereafter incorporated under the laws of this State, constructing a canal of the first class, shall receive a grant from the State of sixteen sections of land to the mile; if of the second class, twelve sections to the mile; if of the third class, eight sections to the mile; if of the fourth class, six sections to the mile; provided, that no canal of a less length than three miles shall be entitled to the benefits of this act.

Sec. 3. That whenever any corporation or company shall have constructed, as required in this act, a section of three miles or more of canal, application may be made to the Governor to have the same examined, whose duty it shall be to direct the State Engineer, or to appoint some competent person to examine and classify the same, and report under oath thereon; and if the Governor shall be satisfied that the work has been done in compliance with this act, he shall certify the same to the Commissioner of the General Land Office, whereupon the said Commissioner shall issue to said company or corporation the number of land certificates, of six hundred and forty acres each, for each mile of canal as required by this act, to which said company or corporation, may be entitled by the classification of said canal; said certificates to be issued and located subject to and under the same conditions as those issued to railroads under the laws of this State; provided, that if any company or corporation who may be entitled to lands under this act shall elect to take one-half of the lands herein granted, then certificates for such amount shall be issued, and the same may be located on any vacant land without reserving alternate sections for the State; provided, such company or corporation before they shall be entitled to receive any benefit from the State under this act, shall satisfy the Governor by such proof as he may require, that they have constructed such canal or ditch in good faith in order to carry out and accomplish the objects of this act, and that said company or corporation, have the ability and do intend to keep said canal or ditch in full repair and efficiency for the purposes of this act, for the period of ten years after it is fully completed; and if said company or corporation do not by such proofs as the Governor may require so satisfy him, they shall not receive any benefit under this act.

Sec. 4. That all corporations for irrigation or navigation are hereby granted the right of way, not to exceed one hundred and fifty feet in width over all public, university, school, and asylum lands, with use of necessary rock, gravel and timber for construction purposes, and may obtain the right of way over private lands by contract or under general laws of the State.

Sec. 5. That the Legislature shall, at such times as it may be deemed proper, establish the rates of freight and passage over any canal for navigation, and fix the

rates for water supply for towns and cities; provided, that until such rates are established by law, said companies may charge such tolls for freight and vessels through canals and such rates for water supply as may be reasonable and proper.

Sec. 6. That any canal company may, as soon as organized, designate the route of such canal, and file with the Commissioner of the General Land Office an accurate description of the same, and if said route shall run in whole or in part over the public domain, it shall not be lawful for any other company or person to locate any land within three miles of said designated route within five years from the date of filing said description with the Commissioner; provided, the company making said designation shall actually commence the work of construction within one year from the filing of said description.

Sec. 7. That any such canal company shall have the free use of the water of the rivers and streams of this State, but in no case shall any company flow lands to the detriment of owners without their consent, or on due payment to the parties aggrieved.

Sec. 8. That said company shall have the right to cross all roads and highways necessary in the construction of their work, and shall, at such crossings, construct and maintain necessary bridges for the accommodation of the public; provided, that the State shall in no wise be responsible for the deficiency of the lands herein granted.

Sec. 9. That no company constructing a canal which shall lie in whole or in part through the bays or waters of this State shall be entitled to the benefits of canals of the first class, unless such canal shall be one hundred feet wide and eight feet deep at ordinary tide.

Sec. 10. That this act take effect and be in force from and after its passage.

Approved March 10th, 1875.

CHAPTER LXIV.

An Act providing for expenses of extradition of criminals under "treaty between the United States of America and the United Mexican States," concluded at Mexico, December 11, 1861; ratified May 20, 1862.

Whereas, By the fifth article of the "treaty between the United States of America and the United Mexican

States for the extradition of criminals," all expenses of detention and delivery of prisoners shall be borne by the frontier State or Territory making the requisition; and there is now an existing indebtedness for such expenses, and the authorities of this State have failed to secure the return and delivery of felons for want of necessary funds, therefore:

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of one thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated, out of any moneys not otherwise appropriated, to pay the expenses necessary for the detention and delivery of escaped fugitives from justice, whose return may be demanded by the authorities of this State of the Mexican Republic.

Sec. 2. That such expense account shall be verified by affidavit certified to by the district clerk under the seal of the court and approved by the Governor; and the Governor may require such other proof as he may think necessary to establish the justice of the claim, upon which the Comptroller shall draw his warrant on the Treasurer.

Sec. 3. That this act take effect from its passage.

Approved March 10th, 1875.

CHAPTER LXV.

An Act entitled an act to authorize the State Treasurer to appoint an additional clerk, and fix his compensation.

Section 1. Be it enacted by the Legislature of the State of Texas, That the State Treasurer is hereby authorized to employ an additional clerk in his office for the period of six months from the date of such employment, and that such clerk shall receive a salary at the rate of fifteen hundred dollars per annum for the time limited in this act.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 10th, 1875.

CHAPTER LXVI.

An Act to amend section sixty-three of an act to amend "An Act prescribing the mode of proceeding in District Courts in matters of probate," approved May 20, 1871.

Section 1. Be it enacted by the Legislature of the State of Texas, That section sixty-three of an act to amend an act prescribing the mode of proceeding in District Courts in matters of probate, approved May 20, 1871, be and the same is hereby amended so as to read as follows: Section 63. Administration shall be commenced as follows: first, in the county where the deceased resided at the time of his death; second, if he did not reside in the State at the time of his death, then in the county where he died, or where the principal part of his estate is situated; third, if he neither died or resided in the State, then in the county where one or more of his nearest relations in the order of descent may reside; or if he left no relations in this State, then in the county where the principal part of the estate is situated.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 11th, 1875.

CHAPTER LXVII.

An Act attaching a portion of Trinity county to Polk county.

Section 1. Be it enacted by the Legislature of the State of Texas, That that portion of Trinity county situated within the following metes and boundaries, to-wit: Beginning at the northwest corner of Polk county thence running to the mouth of Bull creek at its intersection with Big Piney creek, thence to the mouth of Alabama creek, where it intersects the Neches river, thence down said river to the Tyler county line, thence with the Tyler county line to Polk county line and with said Polk county line, to the place of beginning, be and the same is hereby attached to and made a part of Polk county, Texas; provided, the citizens in said detached portion of Trinity county, shall pay their pro-rata portion of

the county indebtedness up to the date of the passage of this act.

Sec. 2. That this act shall take effect from its passage.

Approved March 11th, 1875.

CHAPTER LXVIII.

An Act for the relief of the Scholastic Census Takers for the years 1871, 1872 and 1873.

Whereas, The reports of the scholastic census takers of some of the counties for 1871, 1872 and 1873 were made to the Superintendent of Public Instruction instead of the State Treasurer; and

Whereas, The justices of the peace in several counties had taken the scholastic population for 1873 before the passage of the school law in said year, requiring said duty to be performed by the school trustees; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That where the justices of the peace of any county in the State took the scholastic census, and reported the same to either the Treasurer of the State or the Superintendent of Public Instruction, in good order, for their county for the years 1871, 1872 and 1873, in time to be used for the distribution of the school fund of said years, said report shall be considered in time, and a certificate of that fact from either of the aforesaid officers, where said reports are found, shall be sufficient evidence for the Comptroller to draw his warrant on the State Treasurer for said amounts in favor of said justice or justices of the peace.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 11th, 1875.

CHAPTER LXIX.

An Act to amend an act entitled "An Act to attach the county of Waller to the Thirteenth Senatorial District," approved April 14th, 1874.

Section 1. Be it enacted by the Legislature of the State of Texas, That the above recited act shall hereafter

read as follows: "Section one." That the thirteenth Senatorial District of the State of Texas shall hereafter include and be composed of the counties of Austin, Fort Bend, Wharton and Waller, and the presiding justice of Waller county shall be the returning officer of said district.

Sec. 2. That all laws and parts of law in conflict with the provisions of this act are hereby repealed, and that this act take effect and be in force from and after its passage.

Approved March 11th, 1875.

CHAPTER LXX.

An Act to amend an act approved February 6th, 1871, the same being an act to amend the thirty-fourth and thirty-sixth sections of an act entitled "An Act prescribing the times of holding the district courts in the several judicial districts in the State," approved August 10th, 1870.

Section 1. Be it enacted by the Legislature of the State of Texas, That section thirty-six of the above recited act be so amended as to hereafter read as follows: That the district courts in the thirty-fifth judicial district shall be holden at the times hereinafter specified, to-wit: in the county of Bosque, on the first Mondays in February, June and October, and may continue in session two weeks; in the county of Hill, on the third Mondays in February, June and October, and may continue in session three weeks; in the county of Navarro, on the second Mondays in March, July and November, and at the term of March and November may continue in session four weeks, and at the July term may continue in session six weeks.

Sec. 2. That all laws in conflict with the provisions of this act shall be and the same are hereby repealed, and that this act take effect and be in force from and after its passage.

Approved March 11th, 1875.

CHAPTER LXXI.

An Act to amend section two of an act entitled "An Act to define the Tenth Judicial District of the State of Texas, and to prescribe the times for the holding of the courts therein," approved March 5th, 1874.

Section 1. Be it enacted by the Legislature of the State of Texas, That section two of the above recited act be so amended as to read hereafter as follows, to-wit: Section 2. That the district courts of the several counties composing the tenth judicial district of the State of Texas, shall be begun and holden as follows, to-wit: In the county of Kaufman, on the first Mondays in October, February and June, and may continue in session three weeks; in the county of Rockwall, on the third Monday after the first Mondays in October, February and June, and may continue in session one week; in the county of Van Zandt, on the fifth Monday after the first Mondays in October, February and June, and may continue in session two weeks; in the county of Henderson, on the seventh Monday after the first Mondays in October, February and June, and may continue in session two weeks; in the county of Anderson, on the ninth Monday after the first Mondays in October, February and June, and may continue in session four weeks; in the county of Smith on the thirteenth Monday after the first Mondays in October, February and June, and may continue in session four weeks; and all laws or parts of laws in conflict with this act, be and they are hereby repealed, and this act shall be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER LXXII.

An Act better defining the powers and duties of Sheriffs and Constables.

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever the Governor of the State may be informed by the police court of any county that unlawful combinations exist in such county, that the laws now in force are not adequate to suppress the same, or that the peace officers of the county are unable to make

arrests, then and in that event, the Governor may, if in his judgment the condition of affairs justifies such action, make a proclamation reciting the facts brought to his knowledge, and authorizing the exercise of the power hereinafter conferred.

Sec. 2. That whenever, after such proclamation has been made, any sheriff, deputy sheriff, or constable, shall have personal knowledge, or be informed, upon the affidavit of a credible person, that a felony has been or is about to be committed in his county, and the offender is about to escape, it shall be the duty of such officer to call to his aid not exceeding twenty men, armed and mounted, and with the aid of such force, such officer shall speedily proceed to arrest the person or persons charged with having committed such felony, or with the intention to commit a felony; and if necessary, with the aid of such force, shall pursue the person or persons so charged, any where within the limits of the State, and arrest such person or persons wheresoever they can be found, and when such arrest is made, such officer shall, without delay, bring the party arrested before some magistrate of his county, and either deliver to such magistrate his own affidavit, or the affidavit of the credible person upon which the arrest was made, that a felony has been committed or was about to be committed by the arrested party; provided, that the limit of twenty men above specified shall apply only to any force summoned by the sheriff or other officer, for service beyond the limits of the county where the offense was committed.

Sec. 3. It shall be the duty of the officer making the arrest to ascertain and report to said magistrate the name or names of any and all persons who may have any knowledge of the crime of which the arrested person is accused, in order that they may be subpoenaed as witnesses in behalf of the State.

Sec. 4. That any person called by said officer to his aid, as above directed, shall be entitled to be paid by the police court of his county, out of the first money that may be paid into the county treasury for general purposes, the sum of four dollars per day for each day that such person may be in the service of such officer beyond the limits of the county where the offense was committed; and the affidavit of such person that he has served, at the call of the sheriff, beyond the limits of the county, the number of days he was engaged, together with a certificate from such officer

that the service was rendered as set forth in the affidavit, will be a sufficient voucher for the police court to allow such claim, and draw a warrant for the payment thereof on the treasurer.

Sec. 5. That the affidavit required by section two of this act may be administered by such sheriff, deputy sheriff, or constable, and shall not be void for want of form, but will be sufficient if it describe the offense that has been, or is about to be committed, and name the person or persons violating the law, or give a reasonable description of such person or persons.

Sec. 6. That the power and authority by this act conferred on sheriffs, deputy sheriffs and constables, shall continue in force, and exist until the Governor by his proclamation may revoke the same.

Sec. 7. That the powers conferred upon sheriffs and constables by this act, shall in no case be exercised by such officers during any general election in the State.

Sec. 8. That whenever the police court of any county shall make known to the Governor that such county is liable to forays of marauding or thieving bands, the Governor, for the arrest of such parties, is authorized to confer the powers hereinbefore described upon the sheriffs of such counties; and the provisions of this act shall apply to parties who may serve for this purpose; provided, that the sheriff shall not call out assistance until the county is invaded by such marauders.

Sec. 9. That this act be in force from and after it passage.

Approved March 13th, 1875.

CHAPTER LXXIII.

An Act to amend an act to organize and define the power of the Criminal District Court in and for the counties of Galveston and Harris, and to prescribe the duties thereof, approved July 23, 1870.

Section 1. Be it enacted by the Legislature of the State of Texas, That section four of an act to organize and define the powers of the Criminal District Court in and for the counties of Galveston and Harris, and to prescribe the duties thereof, approved July 23, 1870, be so amended as

hereafter to read as follows: Section 4. Said judge shall hold a term of said court in the city of Galveston, county of Galveston, on the first Monday in the months of January, March, May, July and November, and in the city of Houston, county of Harris, on the first Mondays in the months of February, April, June, October and December of each year, and at such other times as said judge may order and appoint.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER LXXIV.

An Act to authorize the Board of Public Printing to employ a practical printer to aid them in the proper discharge of their duties.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Board on Public Printing is hereby authorized to employ a practical printer, whose duty it shall be to measure all the work done for the State, whenever required to do so by the Board; provided, he shall not receive more than seventy dollars per month for his services.

Sec. 2. That the sum of nine hundred dollars is hereby appropriated, out of any money in the treasury not otherwise appropriated, to pay said printer; and the Comptroller is hereby authorized and required to issue his warrant upon the Treasurer in favor of said printer at any time, upon the certificate of said Board, drawn in harmony with the provisions of the first section of this act.

Sec. 3. That this act take effect from and after its passage.

Approved March 13th, 1875.

CHAPTER LXXV.

An Act to amend an act entitled "An Act providing for the removal of county seats," approved May 1, 1874.

Section 1. Be it enacted by the Legislature of the State of Texas, That when a majority of the registered

voters of any county, shall petition the presiding justice of said county, for the removal of the county seat of said county, it shall be the duty of such presiding justice to order an election for that purpose, giving due notice thereof as in other elections, which election shall be held at the same places and in the same manner as other elections for State and county officers; and the result of said election shall fix and establish the county seat of said county.

Sec. 2. That it shall require the vote of two-thirds of the qualified voters of the county to remove the county seat of such county; provided, however, that if the county seat shall have been established at a point at a greater distance than five miles from the geographical centre of such county, the distance to be ascertained and established by calculation made and certified to by the Commissioner of the General Land Office of the State, upon the map of the county, filed in the General Land Office, or a copy thereof, a majority only of the legal votes cast at such election, shall be necessary to remove it to a point, less than five miles distant from the geographical centre of such county; and that the said distance of five miles shall be measured from the ascertained and established geographical centre of such county to the centre of the ground on which the court house building is situated or proposed to be erected; provided, further, that when a county seat has been located within five miles of the centre of a county, and a portion of the county has since such location, been attached to another county, leaving it seven miles distant from the centre, not less than two-thirds of the qualified voters of the county shall remove it.

Sec. 3. That when such election shall have been held, it shall be the duty of the presiding justice of such county, on the tenth day thereafter, (Sundays excepted,) to open the returns from the several precincts of such county, and estimate the result, recording the state of the polls of each precinct, in a book to be kept by him for that purpose, in manner as provided by law in cases of other elections, and after making such estimate, he shall make and issue his certificate, signed by him, and having the seal of the county court thereon impressed, which certificate shall state in words and figures, the aggregate number of votes polled at said election for each of the points or places voted for at such election, and the day on

which such election was held, and what point or place, if any, received the vote of two-thirds of the qualified voters of the county, or a majority of the whole vote cast at such election, as the case may be under the provisions of the second section of this act, which certificate shall be prima facie evidence of the truth of the matters therein stated, and no other election for such purpose shall be ordered or held in such county for the period of five years from and after the date of such election.

Sec. 4. Any legal voter of the county may contest the result of said election, by filing within twenty days after the result of said election for said county seat has been declared, his written protest against said result as declared, with the clerk of the county court, which protest shall contain the grounds on which said voter intends to contest said election. After the filing of said written protest, the county court of the county shall within thirty days proceed to try said contest, and shall determine the same upon the law and the facts, and for the purposes of said trial the county court shall have full authority and power to compel the attendance of witnesses, and the production of all papers and documents necessary for the proper determination of such contest according to the law and the facts. After the determination of said contest by said county court, any legal voter of the county, who may feel himself aggrieved by the decision of said county court, may appeal said matter to the district court of the county, by filing a bond conditioned for the payment of all costs, which bond shall be payable to the presiding justice of the county, which said bond shall be approved by the county clerk; or if the county court shall fail or refuse from any cause, within the thirty days aforesaid, to try and decide said contest, the party filing said protest shall have the right to be heard in the district court of the county, by filing in said court within five days after the expiration of the thirty days a certified copy of his protest, and in such case the district court shall exercise original jurisdiction to hear and determine said contest on the law and the facts. In all cases of appeal to the district court from the decision of the county court, or in case the district court obtains original jurisdiction under this act, such contest shall have precedence on the docket of said court for trial over any other case, civil or criminal. Nor shall such case of contest be continued for more than one term of the court. In

case of appeal to the district court, the case shall be tried *de novo*. Appeal from the decision or judgment of the district court under this act shall be to the Supreme Court, under the regulations now required by law, so far as not inconsistent with this act; and so soon as such appeal is perfected to the Supreme Court, said Court shall at once proceed to determine such appeal. All costs shall be paid by the party or parties contesting such election. Bond for appeal to the Supreme Court shall be made payable to the district clerk, and shall be conditioned to the payment of all costs by the appellant or the voter of the county taking such appeal. Until final adjudication of contest under this act, the county seat shall remain at the place antecedently fixed by law. So soon as the appeal to the district court is perfected, or the certified copy of the protest is filed, the same shall be docketed and shall stand for trial, unless continued as herein provided.

Sec. 5. That all laws and parts of laws in conflict with the provisions of this act, be and the same are hereby repealed, and that this act take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER LXXVI.

An Act creating the office of Assistant Attorney General, defining his duties and fixing his salary,

Section 1. Be it enacted by the Legislature of the State of Texas, That there is hereby created the office of Assistant Attorney General.

Sec. 2. The Assistant Attorney General shall be appointed by the Governor, by and with the advice and consent of the senate; he shall hold his office for four years, and shall have the same qualification as the Attorney General; he shall assist the Attorney General in representing the interests of the State in all suits and pleas in the Supreme Court, and in all civil actions wherein the State may be interested in the district courts of the State, and shall in addition thereto perform such other duties as may be required of him by law; provided, that the term of office of Assistant Attorney General shall be the same of, and expire with that of the Attorney General.

Sec. 3. That the salary of the Assistant Attorney General shall be three thousand dollars per year.

Sec. 4. That this act take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER LXXVII.

An Act to authorize the Judge of the Twenty-eighth Judicial District to hold a special term of court in the counties of Brazos and Burleson.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Judge of the Twenty-eighth Judicial District, or any district judge with whom he may exchange, is authorized and required to hold a special term of the district court in Brazos and Burleson counties for the trial and disposition of all civil and criminal causes; beginning in the county of Brazos on the first Monday in July, A. D. 1875, and may continue in session for four weeks; and in the county of Burleson, on the fourth Monday in August, and may continue in session for four weeks.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER LXXVIII.

An Act to provide for the instruction of the pupils of the Institution for the Deaf and Dumb in the art of printing.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Board on Public Printing be and is hereby authorized and required to purchase a suitable printing press, with type and all necessary fixtures and material, for the creation of a printing establishment at the said institution for the deaf and dumb, and that said board is further empowered and required to employ some competent person for such time or times as may be deemed necessary to give the pupils of said institution, or such of them as the superintendent and directors shall designate,

proper instruction in the art of printing in all its necessary branches, and said board shall have the power at any time to discharge said teacher, and to employ some other proper person to fill said position; provided, further, that he shall not receive more than one thousand dollars per annum.

Sec. 2. It is hereby made the duty of the superintendent and directors of said institution to arrange the studies of the pupils in the same, so that full force and effect may be given to this act.

Sec. 3. The Public Printing Board of this State shall have the power to have any public printing executed at said institution at any time that they may see proper and expedient, and when the same can be done by the pupils of said institution.

Sec. 4. That the sum of two thousand five hundred dollars, or so much thereof as may be necessary, be and the same is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to carry into effect the provisions of this act; and said money shall be drawn and paid out upon the certificate of the printing board in accordance with the provisions of the law providing for the payment of the accounts of the public printer.

Sec. 5. That this act shall take effect and be in force sixty days from and after its passage.

Approved March 13th, 1875.

CHAPTER LXXIX.

An Act to provide for the election and qualification of assessors and collectors of taxes.

Section 1. Be it enacted by the Legislature of the State of Texas, That at the first general election after the passage of this act, there shall be elected by the qualified voters of every county within the State of Texas, and every four years thereafter, until otherwise provided by law, an assessor and collector of taxes, who shall hold his office for and during the term of four years, and until his successor shall have been qualified; and should the office of assessor and collector, from any cause, become vacant before the expiration of said term, it shall be the duty of the

county court of the county in which such vacancy shall occur to order a special election to fill such vacancy, and the person so elected shall fill such office for the unexpired term of his predecessor, and until his successor shall have been qualified, and shall execute a like bond, and shall be qualified in the same manner as herein required of assessors and collectors of taxes.

Sec. 2. Every assessor and collector of taxes shall, within twenty days after he shall have received notice of his election, and before entering upon the duties of his office, and annually thereafter gives bond to the State of Texas in a sum which the county court shall consider double the probable amount of the State tax to be assessed in the county for one year, with at least three good and sufficient securities, who shall be resident citizens of said county, to be approved by the county court of his county and shall take and subscribe the oath prescribed by the Constitution, which, together with said bond, shall be recorded in the office of the district clerk of said county, and be forwarded by the presiding justice of the county to the Comptroller, to be deposited in his office. Said bond shall be deemed to extend to the faithful performance of the duties of his office as assessor and collector, for and during the year for which said bond was given, and shall not become void upon the first recovery, but suit may be maintained thereon until the whole amount thereof be recovered. Such assessor and collector may be required to furnish a new bond and additional or other security whenever, in the opinion of the county court, it may be deemed advisable. Any tax payer of said county may complain to the county court of the insecurity of said bond, and upon the failure or refusal of said county court, at its first regular term thereafter, to require said assessor and collector to execute a new bond, then the person making such complaint may appeal the case to the district court; and should the order of the county court be affirmed by the district court, then the person making said complaint or motion shall be taxed with the costs, but should the district court require such assessor and collector to give a new bond, then the costs of such proceeding shall be taxed against said assessor and collector. Should any assessor and collector fail to give a new bond when required so to do by the order of either the county or district court, within twenty days from the date of said order, he shall be sus-

pended and dismissed from office by the county court of his county.

Sec. 3. Every assessor and collector of taxes shall have resided in the State one year, and in the county six months preceding his election, to render him eligible to said office; and it shall be the duty of said assessors and collectors to assess the property and collect the taxes so assessed, in conformity to such laws as now exist, or may be enacted hereafter by the Legislature, relative to the assessment and collection of taxes.

Sec. 4. All penal and criminal laws now in force in this State applicable to justices of the peace as assessors of taxes, or to the sheriffs as collectors of taxes, shall be applicable to the assessors and collectors of taxes under this act; and the assessor and collector of taxes shall be required to execute such bond as is now by law required of sheriffs for the collection of county taxes, which bond shall be renewed annually; and which shall be executed and approved as now required of sheriffs, before he shall enter upon the duties of his office; and said bond shall be suable as sheriffs' bonds are under present laws; and said bond shall be conditioned as well for the faithful execution of his duties, under the law, as assessor of taxes, as for the security of the county taxes collected by him.

Sec. 5. That this act take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER LXXX.

An Act making it a penal offence for any one to pursue any calling, profession, or occupation, upon which a tax is payable without obtaining a license therefor.

Section 1. Be it enacted by the Legislature of the State of Texas, That any person who shall pursue or follow any occupation, calling or profession, or do any act taxed by law without first obtaining a license therefor, shall be deemed guilty of a misdemeanor and upon conviction before any court of competent jurisdiction, shall be fined in any sum not less than the amount of the tax so due, and not more than double that sum; provided, that this act

shall not be construed to affect any civil remedy to enforce the collection of such taxes; and provided, further, that a tax receipt for said tax from the proper officer shall be a sufficient license to follow such occupation, calling or profession.

Sec. 2. That any person being prosecuted under this act shall have the right at any time before conviction to have such prosecution dismissed upon payment of said taxes and all cost of said prosecution; and no prosecution shall be commenced against any person or persons after the payment of said taxes, notwithstanding they may have followed such occupation, calling or profession before paying the taxes therefor.

Sec. 3. That this act take effect and be in force from and after sixty days from its passage.

Approved March 13th, 1875.

CHAPTER LXXXI.

An Act to create and provide for the organization of the county of Franklin.

Section 1. Be it enacted by the Legislature of the State of Texas, That a new county, to be called Franklin county, is hereby established out of the following portion of Titus county, bounded as follows: Beginning at a point nine miles west of the town of Mt. Pleasant, in said county of Titus, on the road leading from the town of Mt. Pleasant to the town of Sulphur Springs, in the county of Hopkins, and running thence north to the north line of said county; thence west with the said north line, to the northwest corner of said county; thence south with the west line of said county, to the southwest corner of the county; thence east with the south line of said county, to a point on said line opposite the point of beginning; thence north to the place of beginning.

Sec. 2. That T. W. Templeton, F. M. Hasting, T. Morris, A. J. Smith, C. English, Thomas Bowlin and — Palmer, are hereby appointed commissioners, with full powers to organize said county; to employ a competent surveyor to run the lines of said county; one copy of said survey to be recorded in the office of the district clerk, at the county site of said county, and one copy to be filed with the Sec-

retary of State at Austin. And said commissioners, or a majority of them, shall as soon as practicable, after said survey has been made, meet in the town of Mt. Vernon, and proceed to divide said county into five precincts; said commissioners, or a majority of them, shall then order an election for a justice of the peace for each precinct, and for a sheriff, a clerk of the district court, a treasurer, and surveyor for said county of Franklin, who shall hold their offices until the next general election thereafter for county officers. Said commissioners shall give at least twenty days notice of said election, by posting notices thereof in three public places in each precinct of said county; said election shall be held in the town of Mt. Vernon, and shall be conducted in conformity with the laws regulating elections in this State. And for the purpose of carrying into effect the provisions of this act, said board of commissioners are hereby invested with all the powers conferred upon judges and commissioners of elections by the laws of this State. The commissioners aforesaid shall make return of said election to the Secretary of State at Austin, within twenty days after the same has been held, and shall retain a copy of the same for record in the office of the district clerk, at the county seat of said county of Franklin. Upon the receipt of said returns by the Secretary of State, it shall be the duty of the Governor to issue commissions to those receiving the highest number of votes for the several offices herein named, after they have qualified according to law.

Sec. 3. That at an election to be held at the same time and place, and to be governed by the same rules and regulations as provided for in section two of this act, the voters of said county of Franklin shall determine by ballot upon what point shall be the county seat, and should any one place so voted for receive a majority of all the votes cast at said election, the same shall be the county seat of said county, but should two or more places be voted for, and no one of said places receive a majority of all the votes cast, then it shall be the duty of the aforesaid commissioners to hold another election. They shall give ten days notice of the same, at which said election the two places having received the largest number of votes at the previous election, shall be voted for, and the place receiving the highest number of votes shall be declared by said commissioners as the county seat, until otherwise provided by law.

Sec. 4. That until the election and qualification of the officers herein mentioned, the business of the new county of Franklin shall be transacted at the county seat of Titus county.

Sec. 5. That nothing herein contained shall relieve the inhabitants of the territory, embraced in this county, from payment of their proportion of the debt contracted by Titus county for the building of a courthouse, and all other indebtedness now due by the county of Titus aforesaid; provided, the remaining county of Titus should demand it.

Sec. 6. Be it further enacted, That until otherwise provided for by law, the county of Franklin shall be, for judicial purposes, attached to the Seventh Judicial District, and for the purposes of representation, to the Eighth Senatorial District.

Sec. 7. That this act shall take effect and be in force from and after its passage.

[Note.—The foregoing bill was presented to the Governor of Texas for his approval on the eighth day of March, A. D. 1875, and was neither signed by him nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the constitution, and thereupon became a law without his signature.—“Signed,” A. W. DeBerry, Secretary of State.]

CHAPTER LXXXII.

An Act to create and provide for the organization of the County of Morris.

Section 1. Be it enacted by the Legislature of the State of Texas, That a new county, to be called Morris county, is hereby established out of the following portion of Titus county: Beginning at the nine-mile post due east of Mt. Pleasant, in said county; thence north to the Sulphur Fork of Red River; thence east along the meanderings of said stream to the N. E. corner of said county of Titus; thence south along the line now dividing the county of Titus and Cass to the western extremity of Marion county on the Big Cypress; thence up the meanderings of

said stream to a point opposite and south of the beginning point; thence in a direct line north to the beginning point.

Sec. 2. That John A. Peacock, William Skinner, David Smith, J. Y. Bradfield and James Bridges are hereby appointed commissioners with full power to organize said county to employ a competent surveyor to run the lines of said county; one copy of said survey to be recorded in the office of district clerk at the county seat of said county, and one copy to be filed with the Secretary of State at Austin; and said commissioners, or a majority of them, shall as soon as practicable after said survey has been made, meet in the town of Dangerfield, and proceed to divide said county into five precincts; said commissioners, or a majority of them, shall order an election for a justice of the peace for each precinct, and for a sheriff, a clerk of the district court, a treasurer and surveyor of said county of Morris, who shall hold their offices until the next general election thereafter for county officers; said commissioners shall give at least twenty days notice of said election by posting notices thereof in three public places in each precinct in said county; said election shall be held at the town of Dangerfield, and shall be conducted in conformity with the laws regulating elections in this State; and for the purpose of carrying into effect the provisions of this act, said board of commissioners are hereby invested with all the power conferred upon judges and commissioners of elections by the laws of this State. The commissioners aforesaid, shall make return of said election to the Secretary of State, at Austin, within twenty days after the same has been held, and shall retain a copy of the same for record in the office of the district clerk at the county seat of said county of Morris; upon receipt of said returns by the Secretary of State, it shall be the duty of the Governor to issue commissions to those receiving the highest number of votes for the several offices herein named, after they have been qualified according to law.

Sec. 3. That an election shall be held at the same time and place, and to be governed by the same rules and regulations as provided for in section two (2) of this act: the voters of said county of Morris shall determine by ballot upon what point shall be the county seat, and should any one place so voted for receive a majority of all the votes cast at said election, the same shall be the county seat of

said county; but should two or more places be voted for, and no one receive a majority of all the votes cast, then it shall be the duty of said commissioners to hold another election; they shall give ten days notice of the same; at which said election the two places having received the largest number of votes at the previous election shall be voted for, and the place receiving the highest number of votes shall be declared by said commissioners as the county seat until otherwise provided by law.

Sec. 4. That until otherwise provided by law, the county of Morris for judicial purposes shall be attached to the Seventh Judicial District, and for purposes of representation to the Eighth Senatorial District.

Sec. 5. That this act take effect and be in force from and after its passage.

[Note.—The foregoing bill was presented to the Governor of Texas for his approval on the eighth day of March, A. D. 1875, and was neither signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—A. W. DeBerry, Secretary of State.]

CHAPTER LXXXIII.

An Act to create and organize the county of Somerville.

Whereas, Great inconvenience exists to the people residing in the southern part of Hood county and northern part of Bosque county, by reason of the great distance they are compelled to travel, in attendance upon the several courts in the counties in which they respectively reside; and

Whereas, Said people have petitioned this body to grant them the power and authority to organize a new county, to be called Somerville county, in honor of Alexander Somerville, a soldier of the Republic of Texas; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That a new county, to be called Somerville county, be and the same is hereby created and established, with the following boundary lines to-wit: Begin-

ning at a point on the west boundary line, of Johnson county, where a line due west would strike the northeast corner, of the W. B. Smith survey on Squaw creek; thence south sixty degrees west to the Erath county line; thence with the said line to the southeast corner of Erath county; thence with the division line of Hood and Bosque counties to the Brazos river; thence crossing the said Brazos river to the line of Johnson county, and with said line of Johnson county to the place of beginning.

Sec. 2. That T. C. Jordan, W. G. McCamant, J. N. Chandler, J. A. Chitwood, John Biffle, W. B. Farris, J. J. Martin, William Porter and N. A. de Cormick, be and they are hereby appointed commissioners, with full power and authority to organize said county of Somerville, who shall, before entering upon the duties herein prescribed, take an oath before some justice of the peace or notary public, of Hood or Bosque county, to faithfully and impartially discharge the same; provided, that whenever any one of said commissioners shall have qualified, he shall have authority to administer the oath to the others.

Sec. 3. That said commissioners, a majority of whom constitute a quorum for the transaction of business, shall, within sixty days from and after the passage of this act, meet at the town of Glenrose, and proceed to divide said county into five justice's precincts, order an election for such county officers as are now elected under the Constitution of this State, giving twenty days notice of such election, by posting notices in three public places in each precinct; said election shall be held at the town of Glenrose, and shall in all respects, be conducted in accordance with election laws of this State; and for the purpose of carrying into effect the provisions of this act, said board of commissioners are hereby entrusted with all the powers conferred upon judges and commissioners of election by the laws of this State; the commissioners aforesaid, shall make return of said election to the Secretary of State at Austin, within twenty days after the same has been held, and shall retain a copy of the same for record in the office of district clerk of the county site of said county of Somerville; upon receipt of said returns by the Secretary of State, it shall be the duty of the Governor to issue commissions to those who have been duly elected, after they have qualified according to law.

Sec. 4. That at the same time and place, and in accord-

ance with the same laws, an election shall be held by order of said commissioners, to locate the county site of Somerville county, and the county site of Somerville county shall be located at that place which shall receive a majority of all the votes cast for a county site at such election, and in case no place within said new county shall receive such majority, said commissioners shall order another election to locate the county site, giving ten (10) days notice thereof, at which said election the two places only which receive the highest number of votes at the previous election shall be voted for, and the place which shall receive the highest number of votes shall be declared by said commissioners to be the county site of Somerville county.

Sec. 5. That until the election and qualification of the county officers herein provided for, the territory of Somerville county shall, for all purposes, belong to those counties from which the same was taken.

Sec. 6. That for judicial purposes the county of Somerville shall constitute a part of the Thirteenth Judicial District, and the Twenty-third Senatorial District for the purposes of representation.

Sec. 7. That this act shall take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER LXXXIV.

An Act to appropriate unexpended school moneys, to be used for educational purposes in the school districts to which they belong.

Section 1. Be it enacted by the Legislature of the State of Texas, That such funds, derived from the appropriation of State school funds, as may remain in the county treasury to the credit of any school districts, at the close of the present scholastic year, against which there are no claims of teachers for service rendered in such district from September 1, 1873, to August 31, 1875, be and the same are hereby appropriated for educational purposes, in the district to which they may belong; to be used under the control of the school trustees of such district, in such manner and for such purposes as will be beneficial to the better education of all the scholastic population of such district.

Sec. 2. Accounts against said fund shall be itemized and sworn to by the school trustees of the district to which they belong, and paid on order of the county superintendent by the county treasurer.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER LXXXV.

An Act to provide a mode for the sale of the shares in any joint stock or incorporated company on execution.

Section 1. Be it enacted by the Legislature of the State of Texas, That in any civil suit, instituted in any of the courts of this State, where the plaintiff shall be entitled to attachment against the property of the defendant, who is owner, or part owner, or interested in any shares in any incorporated or joint stock company, the plaintiff shall be entitled to a writ of garnishment against such company or corporation, and which writ may be served on the president, vice president, secretary, cashier or treasurer of such company. The answer of such company or corporation shall state the number of shares owned by the defendant, if any, in the company or corporation, and the face value and numbers of such shares. Should such company or corporation fail to answer as herein required, after service, as required by law, judgment by default shall be entered against such joint stock or incorporated company for the amount of the debt or demand of the plaintiff, and all costs; provided, no execution shall issue against such company till judgment final shall be rendered for the plaintiff, and then only for the judgment and costs. Such garnishment shall be docketed in such court as is now provided by law.

Sec. 2. In any case where the plaintiff has recovered a final judgment against the defendant, and the same is unsatisfied, if the plaintiff, his agent or attorney, shall file an affidavit in the court where such judgment was obtained, to the effect that such judgment is unsatisfied, either in whole or in part, and that the defendant is the owner of shares in the capital stock of any joint stock or incorpor-

ated company in this State, and that he knows of no other or a sufficient amount of property belonging to the defendant out of which said judgment can be made, the clerk or justice of the peace, in whose court such judgment is pending, shall issue a writ of garnishment against such company or corporation, which shall be served as provided in the first section of this act; such garnishment shall be docketed in said court as now provided by law. If the said company or corporation shall not answer as now provided by law, and as is provided in the first section of this act, then the court shall render judgment final by default against such company or corporation for the amount of plaintiff's judgment and all costs of the proceeding.

Sec. 3. If on the coming in of the answer of any joint stock or incorporated company, either under the first or second sections of this act, and it shall appear from such answer that the defendant is the owner of any shares in such company or corporations, the court, under the first section of this act, when judgment final shall be rendered in favor of the plaintiff, shall order and decree the sale of a sufficient number of the shares in such company, describing them in such judgment, as shall be sufficient to pay the debt of the plaintiff and all costs of suit and garnishment. On the coming in of the answer of the company or corporation, under the second section of this act, if it shall appear that defendant is the owner of any shares in such company or corporation, the same judgment shall be entered by the court.

Sec. 4. On the decree of the court of the sale of any such shares, an order of sale shall be issued, directed to the sheriff or other proper officer, which order of sale shall describe the shares; and, on the receipt of such order, the sheriff or other officer shall advertise the sale of such shares as is now required for the sale of other personal property. If the county where judgment is rendered is different from that of the domicil of the company or corporation, the same shall also be advertised in the county of the domicil of such company by publication for ten days before the sale, in some newspaper published in the county of the domicil of the company.

Sec. 5. The sale shall be conducted in all respects as is now provided by law for the sale of personal property. The sheriff or other officer shall execute a transfer of the shares sold to the purchaser, describing them sufficiently

for identification, with a brief recital of the judgment or decree of the court, by virtue of which the same were sold. Such sale shall have the force and effect to transfer such shares or stock to the purchaser, with all the title, rights and privileges enjoyed by the defendant by virtue of the same.

Sec. 6. After service of the writ of garnishment by this act provided, any sale or transfer by the defendant of such shares of stock shall be absolutely void and of no effect in the hands of a purchaser or assignee.

Sec. 7. The plaintiff in garnishment shall have the right to contest the answer of the company, either in whole or part.

Sec. 8. That the shares owned by any person in such banks or incorporated companies, as are contemplated by the provisions of this act, shall be subject to execution, in every case where judgment has been rendered against the person so owning said shares, in the same manner as other personal property is liable to execution by the laws of this State.

Sec. 9. This act shall be construed to apply to any banking corporation domiciled in this State.

Sec. 10. This act shall be construed to be cumulative, and shall take effect and be in force from ninety days after its passage.

Approved March 13th, 1875.

CHAPTER LXXXVI.

An Act to grant lands to certain counties for educational purposes.

Section 1. Be it enacted by the Legislature of the State of Texas, That all organized counties in this State, which have not received a grant of lands for purposes of education, and all counties hereafter created, shall be entitled to have issued to each of them certificates for four leagues of land, to be located anywhere on the unappropriated public domain of this State.

Sec. 2. Upon the application of the county court of any such county, the Commissioner shall issue to said county four certificates, for one league of land each, which may be located, surveyed and patented in the same manner

as lands granted to other counties have been, and said counties shall pay no office fees in the General Land Office.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER LXXXVII.

An Act concerning the location of the Courthouse in Marion county.

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever the people, or any portion of them of Marion county, shall provide a lot and building in the city of Jefferson, convenient and suitable for the purposes of a courthouse, of value not less than ten thousand dollars, and shall convey the same to the county of Marion, it shall be the duty of the county court of said county, and the said court is hereby authorized and required to remove the records and books of the county, and matters appertaining to the courts of said county to such building, and the same thence afterwards shall be deemed and held the courthouse of Marion county.

Sec. 2. That the county court of said county is hereby authorized and empowered to dispose of the interest of the county, in the lots and house now used as a courthouse, in any manner it may deem best for the county; and the said court shall also be authorized to contract with any person or persons, in any manner deemed best for the interest of said county, for the erection of a courthouse adapted to the wants of the same, with all necessary rooms for clerks, sheriffs and juries.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER LXXXVIII.

An Act to amend section two of "An Act to reorganize the Seventh, Eighth and Eleventh Judicial Districts, and fix the time of holding courts therein," approved April 17, 1874.

Section 1. Be it enacted by the Legislature of the State of Texas, That the second section of "An Act to re-

organize the Seventh, Eighth and Eleventh Judicial Districts, and to fix the time of holding courts therein," approved April 17, 1874, be and the same is hereby amended so as to read as follows: Section 2. That the district courts of the Seventh Judicial District shall be holden at the time hereinafter specified, to-wit: in the county of Bowie, on the last Mondays in February, June and October, and may continue in session two weeks; in the county of Titus, on the second Mondays in March, July and November, and may continue in session two weeks; in the county of Franklin, on the fourth Mondays in March, July and November, and may continue in session one week; in the county of Morris, on the first Mondays in April, August and December, and may continue in session one week; in the county of Cass, on the second Mondays in April, August and December, and may continue in session three weeks; in the county of Marion, on the first Mondays in May, September and January, and may continue in session five weeks.

Sec. 2. That all writs and process, returnable to said courts, shall be returnable to the terms of the said courts as herein defined, and all such writs and process as have been issued, executed and returned, shall be as valid as if no change had been made in said courts by the passage of this bill.

Sec. 3. That all laws and parts of laws inconsistent with this act are hereby repealed.

Sec. 4. That this act take effect from and after its passage.

Approved March 13th, 1875.

CHAPTER LXXXIX.

An Act to authorize the Judge of the Fourteenth Judicial District of the State of Texas to open his court in the county of Tarrant on any day during the March term, A. D. 1875.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Judge of the Fourteenth Judicial District of the State of Texas be and he is hereby authorized to open his court in the county of Tarrant on any day of the March term, A. D. 1875, and continue to the end of said term as now required by law.

* Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER XC.

An Act supplementary to "An Act for the benefit of actual occupants of the public domain," approved May 26, A. D. 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That where any person has occupied and had land surveyed under the aforesaid act, to which this is a supplement, or under any other and previous existing law, providing for the pre-emption of the public lands of this State by actual settlers, or who may hereafter pre-empt any of the public lands of this State, as an actual settler, under existing laws; if such person shall be driven off by hostile Indians or forced to abandon his land so pre-empted, by fear of hostile Indians, such actual settler or pre-emptor shall not thereby lose his right to the land so located, by reason of such abandonment of the land; provided, such settler or pre-emptor returns to such land so soon as it is safe to do so, and shall actually reside on such land for the period of three years, not computing the time of any such forced abandonment; and in all cases of such forced abandonment, the settler or pre-emptor shall make all of the proof as now required by law, before he shall be entitled to a patent, except continuous occupation; and as to the occupation, he shall prove as now required by law, that he has, not computing the period of any forced abandonment, actually occupied the land as a homestead, for three years, and that he was forced to abandon said land, by being driven off by hostile Indians, or by reason of fear of them, and that he returned and occupied the same as a homestead so soon as it was safe for him to do so.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER XCI.

An Act to amend section 357 of "An Act prescribing the mode of proceeding in District Courts in matters of probate," approved August 15, 1870.

Section 1. Be it enacted by the Legislature of the State of Texas, That section 357 of the above recited act be and is hereby amended so as hereafter to read as follows: Section 357. The guardian of the estate shall use due diligence to collect all claims or debts owing to the ward, and to recover possession of all property to which the ward has title or claim; provided, there is a reasonable prospect of collecting such claims or debts, or of recovering such property; and if he neglects to use such diligence, he and his sureties shall be liable for all damages occasioned by such neglect. The guardian, under an order of the court, may compound or compromise bad or doubtful debts due to his ward or wards, or may extend the time for the payment of the same, upon the debtor giving ample security for the payment thereof, upon such terms as he may deem best for the interest of his said ward.

Sec. 2. That this act shall take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER XCII.

An Act to amend "An Act to establish a Code of Criminal Procedure for the State of Texas," approved August 26, 1856.

Section 1. Be it enacted by the Legislature of the State of Texas, That section 382 of "An Act to establish a Code of Criminal Procedure for the State of Texas," approved August 26th, 1856, be so amended as to read as follows: Section 382. Witnesses shall first be sworn by the foreman not to divulge, either by words or signs, any matter about which they may be interrogated, and to keep secret all proceedings which may be had in their presence, and true answers to make to such questions as may be propounded by the grand jury or under its directions.

Approved March 15th, 1875.

CHAPTER XCIII.

An Act to perfect the organization of the county of Presidio.

Section 1. Be it enacted by the Legislature of the State of Texas, That Daniel Murphy, O. M. Keesey, H. W. Tinkson, T. A. Wilson and W. M. Ford are hereby made and constituted a board of commissioners for the purpose of organizing the county of Presidio, in accordance with the provisions of an act to organize the county of Presidio, approved May 12, 1871.

Sec. 2. That the said commissioners shall have all the powers granted in the aforesaid act, and they shall have the further power of making a complete registration of all the qualified voters in said county, in accordance with law, preparatory to holding the elections provided for in said act.

Sec. 3. This act shall take effect from and after its passage.

Approved March 13th, 1875.

CHAPTER XCIV.

An Act to require the several district clerks in the State of Texas, to forward to the Secretary of State certain books.

Section 1. Be it enacted by the Legislature of the State of Texas, That the several district clerks of the State of Texas, after receiving notice of the passage of this act in the manner hereinafter mentioned, shall be required to send to the Secretary of State at Austin, a tabular list or statement of all the Texas reports in their several counties, belonging to said counties, which list shall be certified to by the district clerks as being a correct list of said Reports; and at the same time said list is forwarded to the Secretary of State, each district clerk, whose county has any more of said Reports than one complete set thereof, is required to box up and send to the Secretary of State, all of said Reports in excess of one complete set.

Sec. 2. The cost of transportation of the books sent by district clerks, in compliance with the provisions of this

act, shall be paid by the Secretary of State, and the sum of five hundred dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be expended for the purpose aforesaid; and the certificate of the Secretary of State shall be a sufficient authority to the Comptroller to issue his warrant for any portion or the whole of said sum.

Sec. 3. The Secretary of State is required immediately after the passage of this act, to notify each and every district clerk in this State, of the provisions and requirements of this act.

Sec. 4. Within thirty days after any district clerk shall receive the notice from the Secretary of State, provided for in the third section of this act, such clerk shall make out the tabular statement required to be made out in section one of this act, and shall forward all Texas Reports belonging to his county in excess of one complete set thereof; and if he shall negligently fail to send said Reports in compliance with this act, to the Secretary of State aforesaid, he shall be fined for such failure, the sum of twenty-five dollars, to be recovered in any court of competent jurisdiction.

Sec. 5. The several district judges in the State are required to give this act in charge to the grand juries in their respective districts.


Sec. 6. That this act take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER XCV.

An Act to grant land to any company which will macadamize certain road in Hays county.

Section 1. Be it enacted by the Legislature of the State of Texas, That any company which shall under the Act concerning private corporations," approved 1 April 1874, build or construct a macadamized road, beginning on the eastern limits of the town of Marcos, Hays county, Texas; thence in a southerly direction to Austin, Texas, for three miles, shall be entitled to have



and receive from the State of Texas certificates of eight sections of land, of six hundred and forty acres each, for each and every mile constructed according to the provisions of said act; said certificates to be located in alternate sections, as certificates issued to railroad companies are required to be located.

Sec. 2. That said company, upon the completion of each mile of said road, shall, through its principal officer, notify the Governor thereof, who shall appoint an engineer whose duty it shall be to examine said section of road and report under oath; and if said section of road be completed in the manner required by said act, the Governor shall order the Commissioner of the General Land Office to issue said certificates.

Sec. 3. That this act shall take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER XCVI.

An Act making an appropriation to pay the Commissioners appointed to appraise the alternate sections of land as surveyed by railroad companies and set apart for common schools.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of ten thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated, out of any money in the treasury derived from the sale of any of the alternate sections of land, as surveyed by railroad companies and sold under the act of the Legislature for the sale of the alternate sections of land, as surveyed by railroad companies, and set apart for the benefit of the common school fund, approved April 24th, 1874.

Sec. 2. That upon the presentation of the account of any of said Commissioners, sworn to before any officer authorized to administer an oath, setting forth the number of days actually engaged in making such appraisal, and that no more time be embraced in said account than was actually necessary, the Comptroller shall draw his warrant upon the Treasurer for the amount due said Commissioners.

That this act take effect and be in force from and after its passage.

March 13th, 1875.

CHAPTER XCVII.

An Act to repeal an act entitled "An Act granting pensions to the surviving veterans of the revolution which separated Texas from Mexico," approved April 21st, 1874.

Section 1. Be it enacted by the Legislature of the State of Texas, That an act entitled "An Act granting pensions to the surviving veterans of the revolution which separated Texas from Mexico," approved April 21st, 1874, be and the same is hereby repealed; provided, this act shall not impair the rights of those applicants whose claims were recognized by the Comptroller at the date of its passage.

Sec. 2. That this act take effect and be [in] force from and after its passage.

Approved March 13th 1875.

CHAPTER XCVIII.

An Act making an appropriation to pay Captain L. H. McNelly's Company for seven months service, and the Galveston companies, and the expenditures attending the same while in the service of the State, to aid the civil authorities.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of seventeen thousand, four hundred and three dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay Captain L. H. McNelly's Company for the period of seven months, and for the pay and expenses of the Galveston companies while in the service of the State, under the call of the Governor, to aid the civil authorities.

Sec. 2. That the foregoing amount, or any part thereof due, shall be paid by the warrant of the Comptroller on the Treasurer, on an account of the services rendered, certified to be correct by the Adjutant General.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER XCIX.

An Act authorizing the person in charge of the Capitol and Capitol Grounds and State Cemetery, under act of April 29, 1874, to contract for the necessary piping and fixtures for gas light throughout the Capitol and Governor's Mansion, and making an appropriation therefor.

Section 1. Be it enacted [by] the Legislature of the State of Texas, That the Superintendent of Public Buildings be and is hereby authorized and instructed to enter into a contract, within fifteen days after the passage of this act, with solvent and responsible parties to furnish and lay piping throughout the Capitol and Governor's Mansion, and to arrange fixtures in said buildings, for the purpose of having the same well lighted with gas.

Sec. 2. That said contract shall be made with the lowest responsible bidder, after giving public notice that for ten days that said contract is open to bidders.

Sec. 3. That the sum of three thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to carry out the provisions of this act.

Sec. 4. That this act take effect from its passage.

Approved March 13th, 1875.

CHAPTER C.

An Act regulating the incorporation of cities of one thousand inhabitants or over, and to provide for the substitution and repeal of all acts heretofore passed incorporating said cities which may be in force by virtue of any existing charter.

Section 1. Be it enacted by the Legislature of the State of Texas, That any city within the limits of this State, containing one thousand inhabitants or over, may accept the provisions of this act, in lieu of any existing charter, by a two-thirds vote of the city council of such city, which action by the city council shall be held at a regular meeting thereof, and entered upon the journal of their proceedings, and a copy of the same signed by the mayor and attested by the city clerk or secretary, under the corporate seal, filed and recorded in the office of the

clerk of the district court of the county in which said city is situated; and the provisions of this act shall be in force, and all acts heretofore passed incorporating such city, which may be in force by virtue of any existing charter, shall be repealed from and after the filing of the said copy of their proceedings as aforesaid.

Chapter I—General Powers and Duties.

Section 1a. That all the inhabitants of each city so accepting the provisions of this act shall continue to be a body corporate, with perpetual succession by the name and style by which such city was known before the acceptance of the provisions of this act, and as such they and their successors by that name shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises possessed and enjoyed by said city at the time of the acceptance of the provisions of this act, and those herein granted and conferred, and shall be subject to all the duties and obligations pertaining to, or incumbent on said city as a corporation, at the time of the acceptance of the provisions of this act, and may ordain and establish such acts, laws, regulations and ordinances, not inconsistent with the Constitution and laws of this State, as shall be needful for the government, interest, welfare and good order of said body politic, and under the same name shall be known in law, and be capable of contracting and being contracted with, suing and being sued, impleading and being impleaded, answering and being answered unto in all courts and places, and in all matters whatever; may take, hold and purchase, lease, grant and convey such real and personal or mixed property or estate, as the purposes of the corporation may require, within or without the limits thereof; and may make, have and use a corporate seal, and change and renew the same at pleasure.

Sec. 2. That the bounds and limits of said city shall be and remain the same as fixed and defined by the provisions of the act of incorporation, substituted by the provisions of this act; provided, that said limits of said corporation may be hereafter extended by adding additional territory to the same whenever the majority of the qualified electors of said territory shall indicate a desire to be included within the limits of said corporation.

Chapter II—Officers and their Election.

Sec. 3. The municipal government of the city shall consist of a city council, composed of the Mayor and two Aldermen from each ward, a majority of whom shall constitute a quorum for the transaction of business, except at called meetings, or meetings for the imposition of taxes, when two-thirds of a full board shall be required, unless herein otherwise specified. The other officers of the corporation shall be a Treasurer, an Assessor and Collector, a Secretary, a City Attorney, a Marshal, and City Engineer, and such other officers and agents as the city council may from time to time direct. The above named officers shall be elected by the qualified electors of said city, as hereinafter provided for, and shall hold their offices for two years, and until the election and qualification of their successors.

Sec. 4. An election shall be held in each of the wards of said city, on the first Tuesday in April next after the acceptance of this act, and annually thereafter at such place or places as the city council may direct, and of which thirty days' previous notice shall be given by publication in one or more newspapers of said city. Said election shall be ordered by the city council, and in case of their failure to order the same, the mayor of the city may make such order. For the purpose of holding said election, and others ordered, the city council shall appoint annually, in May or earlier, in each ward, some competent and suitable person who shall be the presiding officer at all elections held in his ward. The presiding officer of each ward shall appoint two judges and two clerks, who together with the presiding officer shall be managers of elections. The presiding officer and judges must be qualified voters in the city. The city council shall provide for their compensation, and by ordinance regulate and define their powers and duties. The mayor, whenever an election is ordered, shall give the required notice, and issue to the presiding officers a writ of election; and every published notice of election shall state the officer or officers to be elected, the place where the election will be held, and the name of the presiding officer thereat. In case the officer so appointed is unable, fails, refuses, or neglects to act, the mayor shall make another appointment; and in case no appointed presiding officer appears to open the polls, the qualified electors may appoint such officer, who shall perform the same duties and

have like power and authority to act as a first appointee; but in such case, the managers, in their returns, or otherwise, shall certify that the presiding officer failed to attend, or neglected to act, and that the person acting as such was duly chosen by the electors present.

Sec. 5. At the first election under this charter, there shall be elected by the qualified voters of said city, voting by ballot, a mayor, who shall hold his office for one year from the date of said election, and until his successor shall be elected and qualified; and at said first election under this charter, there shall be elected by the qualified voters of each ward respectively, two aldermen, one of whom shall hold his office for one year, and the other for two years, from the date of their election, the term for which each holds his office shall be determined at the first regular meeting after said election, by lot; provided, that there shall be one alderman for the long term and one for the short term, from each of the wards respectively; and provided, further, that at each annual election thereafter, there shall be elected one alderman from each ward, who shall hold his office for two years, and until his successor is duly elected and qualified.

Sec. 6. At all elections under this charter, the ballots of each ward shall be taken separately, the polls being opened in each ward for one day only, from 8 o'clock A. M. until 6 o'clock P. M., with the privilege of a recess of one hour from 12 to 1 o'clock. Should the polls not be promptly opened for the reception of votes by 8 o'clock A. M., the time thus lost shall be extended beyond the hour of 6 P. M., so as to secure the full period of nine hours for voting purposes. On closing the polls, the managers of election shall immediately proceed to count and cast up the votes for each candidate, and certify and sign the returns in duplicate, one of which shall be sealed up and retained by the presiding officer for future use, as a reference, in case of a contested election; the other copy shall be sealed up with the name of the presiding officer written across the seals, and by the presiding officer, or in his absence or inability, by one of the judges or clerks, delivered in open session to the city council on the next day or as soon thereafter as practicable. The officer so delivering the same shall make oath before the mayor, or one of the aldermen, that the returns by him delivered, have not been altered or opened since

being signed and sealed as aforesaid. As received, the city council shall immediately open the returns from each ward, casting up the votes of the wards for mayor, city attorney, tax assessor and collector, treasurer, city marshal, city engineer, and secretary; and entering the same in tabular form on the journals of the council. The person thus receiving the highest number of votes for mayor, city attorney, tax assessor and collector, treasurer, city marshal, city engineer, and secretary, shall be declared elected; and in like manner, the votes for aldermen in each ward shall be entered on the journals, and the person receiving the highest number of votes for alderman in the ward in which he is a candidate, shall be declared elected alderman; provided, that at said first election under this charter, the two persons receiving the highest number of votes in the ward in which they are candidates, shall be declared elected alderman. The newly elected officers may enter upon their duties on the fifth day thereafter, Sundays excepted; provided, that any officer elect may qualify at any time within thirty days, otherwise the office shall be deemed vacant, and a new election held to fill the same. It shall be the duty of the city secretary to notify all persons elected or appointed to office of their election or appointment; and the city council elect shall meet at the usual place of meeting on the fifth day (Sundays excepted) after their election, or as soon thereafter as possible, and be installed under the provisions of this act.

Sec. 7. That every person not disqualified by law, who shall have attained the age of twenty-one years, and is entitled to vote for members of the Legislature of this State, and is duly registered, and shall have resided within the corporate limits of said city for six months next preceding the election, shall be entitled to vote for the officers of said city; provided, nevertheless, that no person belonging to the regular army of the United States shall be so entitled.

Sec. 8. The managers of elections shall be sworn to well and truly conduct the election without partiality and prejudice, and agreeable to law, and according to the best of their skill and understanding, which oath shall be administered by the mayor or any justice of the peace. The presiding officer and judges thus qualified shall have power to administer oaths necessary to the performance of their official duties. When any person offering a vote shall be objected to by any one qualified to vote at such election,

the managers shall examine him on oath touching the points objected to, and if he fail in establishing his qualification to their satisfaction, his vote shall be rejected.

Sec. 9. Whenever it so happens in any election that there is a tie between two or more candidates for the same office, all of whom cannot be elected, the city council shall declare such election void as between such candidates only, and immediately order a new election for the office, first giving not less than five days' notice thereof. In the event of a failure to meet on the part of the city council to examine the election returns and declare the result, the mayor shall discharge that duty.

Sec. 10. No person shall be eligible to the office of mayor unless he possesses the qualifications of an elector, and shall have resided twelve months next preceding the election within the limits of the city; and no person shall be eligible to the office of alderman unless in addition to the above qualifications he be a resident of the ward from which he may be elected at the time of the election; provided, that if any alderman shall remove from the ward in which he was elected, his office shall be deemed vacant, and a new election ordered to fill the same.

Sec. 11. In case of a vacancy in the office of mayor or alderman, or other elective office, by refusal to accept, or failure to qualify, or by death, resignation or otherwise, the city council shall order a new election to fill such vacancy, and all special elections shall be conducted as is herein provided for the annual election; provided, that in all special elections to fill vacancies, ten days notice shall be deemed sufficient.

Sec. 12. The city council shall be composed of the mayor and aldermen provided for by this charter. The mayor shall be president of the council, and in case of a tie on any question he shall give the casting vote. At the first meeting of each new council, or as soon thereafter as practicable, one of the aldermen shall be elected president pro tem., who shall hold his office for one year. In case of the failure, inability or the refusal of the mayor to act, the president pro tem. shall perform the duties and receive the fees and compensation of the mayor.

Chapter III—Powers and Duties of Officers.

Sec. 13. Every person elected by the voters of said city to fill any office, or by the city council, under this act, shall,

before entering on the duties of his office, take and subscribe the official oath prescribed in the Constitution of this State, and the city council may by ordinance require such additional oath as they may deem best calculated to secure faithfulness in the performance of their duties by such officers.

Sec. 14. The mayor of the city shall be the chief executive officer of said corporation, and shall be vigilant and active at all times in causing the laws and ordinances for the government of said city to be duly executed and put in force. He shall inspect the conduct of all subordinate officers in the government thereof, and, as far as it may be in his power, shall cause all negligence, carelessness and positive violations of duty to be prosecuted and punished. He shall have power, whenever in his judgment the good of the city may require it, to summon meetings of the city council, and he shall, from time to time, communicate to that body all such information, and recommend all such measures as may tend to the improvement of the finances, the police, health, security, cleanliness, comfort, ornament and good government of said city. The mayor shall also be the chief judicial magistrate of the city, until the election and qualification of recorder as hereinafter provided.

Sec. 15. That whenever the mayor shall deem it necessary, in order to enforce the laws of the city, or to avert danger, or protect life or property, in case of riot or any outbreak or calamity or public disturbance, or when he has reason to fear any serious violation of law or order or any outbreak, or any other danger to said city or the inhabitants thereof, he shall summon into service, as a special police force, all, or as many of the citizens as in his judgment and discretion may be necessary and proper, and such summons may be by proclamation, or order addressed to the citizens generally, or those of any ward of the city, or sub-division thereof, or such summons may be by personal notification: such special police while in service, shall be subject to the orders of the mayor, shall perform such duties as he may require, and shall have the same power, while on duty as the regular police force of said city; and any person so summoned, and failing to obey or appearing and failing to perform any duty that may be required by this act, shall be fined in a sum not exceeding one hundred dollars.

Sec. 16. The mayor shall have like power with a justice

of the peace to administer oaths of office, and also all other oaths and affirmations and to give certificates thereof. He shall possess and execute, in the city, in criminal cases, all the powers and duties of a justice of the peace. He shall have authority in case of a riot, or any unlawful assemblage, or with a view to preserve peace and good order in said city, to order and enforce the closing of any theatre, ball room, grog shop, tippling house, bar room or other place of resort, or public room, or building, and may order the arrest of any person violating, in his presence, the laws of the State, or any ordinance of the city, and he shall perform such other duties, and possess and exercise such other power and authority, as may be prescribed and conferred by the city council.

Sec. 17. All ordinances and resolutions adopted by the council shall, before they take effect, be placed in the office of the city secretary; and if the mayor approve thereof, he shall sign the same, and such as he shall not sign, he shall return to the city council, with his objections thereto; upon the return of any ordinance or resolution by the mayor, the vote by which the same was passed shall be reconsidered, and if, after such reconsideration, a majority of the whole number of aldermen agree to pass the same, and enter their votes on the journal of their proceedings, it shall be in force; and if the mayor shall neglect to approve, or object to any such proceedings, for a longer period than three days after the same shall be placed in the secretary's office as aforesaid, the same shall go into effect.

Sec. 18. The city council may, at any time after the acceptance of the provisions of this act, by ordinance establish the office of recorder of said city, and appoint a suitable person to fill the same, and when so appointed, he shall be the chief judicial magistrate of the city, and shall hold his office until the installation of a new city council, unless the council shall sooner discontinue the office by ordinance; and as such shall hold a court within said city, by the name of the recorder's court of the city of —, which said court shall have jurisdiction and cognizance of all misdemeanors, breaches of the peace, infractions of the ordinances, and all other causes arising under the laws of the said city, and shall be deemed always open for the trial of said causes. The said court shall have full power, authority and jurisdiction in all cases arising under the ordinance of said corporation, and over

any breaches and violations thereof, and of any and all persons thus offending, and to try and determine all suits, actions and complaints, charging a violation of any ordinance of said city, and may grant new trials, on motion in writing, showing sufficient cause and duly sworn to; and all prosecutions, trials and proceedings had in said court under this act, shall be governed by the laws and rules regulating trials, prosecutions and proceedings in justices courts in force at the time, and shall be entitled to the same fees that justices of the peace are allowed for similar services, and to such additional compensations as may allowed by the by-laws and ordinances of the corporation. The recorder may require of any person arrested under the provisions of this act, a bond for his or her good behavior, and to keep the peace, with two good and sufficient sureties, which bond shall be payable to the city of —. He shall have full power and authority to issue subpoenas for witnesses, and to compel their attendance by process of attachment. He may punish all attempts, by fine and imprisonment, or either; may issue subpoenas, writs of *capias*, warrants of arrest, search warrants, executions, and all other process known to the law, which a justice of the peace of this State may lawfully issue; and all of said writs and process shall be issued, served and executed under the same forms, and in the same manner, as the like process would be when issued by a justice of the peace, unless herein otherwise provided. He shall also have full power and authority to administer official oaths, and all oaths and affirmations, and give certificates therefor. The recorder shall be *ex-officio* justice of the peace, and he shall possess and execute, in the city, in criminal cases, all the powers and duties of such officer, and shall have the same authority and like powers with justices of the peace in the prevention and suppression of crime; provided, that in no case shall he entertain jurisdiction in civil suits. The city council may determine what costs, if any, shall be charged in proceedings in and for all process issued in said court, and shall allow the judge thereof, for his services, such salary or fees, or either, or both, as they deem necessary; and the recorder shall perform such other duties as may be prescribed by any ordinance of said corporation that may properly and lawfully be required of said officer, as the judge of said court, and are not inconsistent with the laws and constitution of this State; provided, that all moneys

collected from fines, of whatever character imposed by the recorder, shall be paid into the city treasury for the use of the city; and provided, further, that until the said office of recorder is established, and a recorder is elected by the city council, or when the same shall be discontinued, or a vacancy occur therein, the mayor of the city shall possess and execute all the powers and duties of recorder, holding a court which shall be known as the mayor's court, as set forth in this section, and that may be imposed by ordinance of the city, and shall receive for his services the same fees and compensation.

Sec. 19. That every person brought before the mayor or recorder, to be tried for an offence for which the penalty may be fine or imprisonment, or both, shall be entitled, if he or she shall demand it, to be tried by a jury of six legal voters of the city, who shall be summoned, empanelled and qualified as jurors in justices courts under the laws of the State.

Sec. 20. The marshal of the city shall be ex-officio chief of police, and may appoint one or more deputies, and shall either in person or by deputy attend upon the recorder's or mayor's court while said court is in session, and shall promptly and faithfully execute all writs and process issued from said court. He shall have like power with the sheriff of the county to execute the writ of search warrant. He shall be active in quelling riots, disorder and disturbances of the peace within the limits of said city, and shall take into custody all persons so offending against the peace of the city, and shall have authority to take suitable and sufficient bail for the appearance before the recorder's or mayor's court, of any person charged with an offense against the ordinances or laws of the city. It shall be his duty to arrest without warrant all violators of the public peace, and all who obstruct or interfere with him in the execution of the duties of his office, or who shall be guilty of disorderly conduct or disturbances whatever. To prevent a breach of the peace or preserve quiet and good order, he shall have authority to close any theatre, bar room, ball room, drinking house, or any other place or building of public resort; and in the prevention and suppression of crime and arrest of offenders he shall have, possess and execute like power, authority and jurisdiction as the sheriff of a county under the laws of the State. He shall receive a salary, or fees of office, or both, to be fixed by the city

council. The marshal shall give such bond for the faithful performance of his duties as the city council may require, and he shall perform such other duties and possess such other powers, rights and authority as the city council may by ordinances require and confer, not inconsistent with the Constitution and laws of this State.

Sec. 21. It shall be the duty of the city secretary to attend every meeting of the city council, and keep accurate minutes of the proceedings thereof in a book to be provided for that purpose; and to engross and enroll all laws, resolutions and ordinances of the city council; to keep the corporate seal; to take charge of and preserve and keep in order all the books, records, papers, documents and files of said council; to countersign all commissions issued to the city officers and licenses issued by the mayor, and to keep a record or register thereof; and to make out all notices required under any regulation or ordinance of the city. He shall draw all warrants on the treasurer, and countersign the same, and keep an accurate account thereof in a book to be provided for the purpose. He shall be the general accountant of the corporation, and shall keep, in books, regular accounts of all receipts and disbursements for the city, and separately, under proper heads, each cause of receipt and disbursement; and also accounts with each person including officers who have money transactions with the city, crediting amounts allowed by proper authority, and specifying the particular transaction to which such entries apply. He shall also keep a register of bonds and bills issued by the city, and all evidence of debt due and payable to it, noting the particulars thereof, and all facts connected therewith, as they occur. He shall carefully keep all contracts made by the city council, and he shall do and perform all such other duties as may be required of him by law, ordinance, resolution or order of the city council. He shall receive for his services an annual salary, payable at stated period, and such additional fees as may be allowed by the city council.

Sec. 22. The treasurer of said city shall give bond in favor of the city in such amount, and in such form as may be required by the city council, and with sufficient security, to be approved by the city council, conditioned for the faithful discharge of his duties. He shall receive and securely keep all moneys belonging to the city, and make all payments for the same upon the order of the mayor,

attested by the secretary under the seal of the corporation; provided, that no order shall be paid unless the said order shall show upon its face that the city council has directed its issuance, and for what purpose. He shall render a full and correct statement of his receipts and payments, to the city council at their first regular meeting in every quarter, and whensoever, at other times, he may be required by them so to do; at the end of every half year he shall cause to be published at the expense of the city, a statement, showing the amount of receipts and expenditures for the six months next preceding, and the general condition of the treasury; and he shall do and perform such other acts and duties as the city council may require; and for his services he shall receive such compensation as shall be fixed by the city council.

Sec. 23. The assessor and collector shall make up all the assessment of all property taxed by the city, and make duplicate rolls thereof, and on completion of the rolls shall deliver one of them to the city secretary. He shall collect all taxes due the city, and in the event of non-payment of any taxes, shall proceed to sell property to raise the amount of taxes so due; and shall in the performance of his duties, observe the provisions of this act, and the ordinances of the city relating thereto. He shall give bond, in such amount and in such form as the city council may prescribe, with good and sufficient sureties, and the city council may require a new bond whenever, in their opinion, the existing bond is insufficient; and whenever such bond is required, he shall perform no official act until said bond shall be given and approved. He shall at the expiration of every week pay to the treasurer all money by him collected, and shall report to the city council, at the first meeting in every month, all moneys so collected and paid; and he shall perform all such other duties, and in such manner and according to such rules and regulations as the city council may prescribe. The assessor and collector is authorized to require the owners of all property subject to taxation to render a correct account of the same, under oath, to be administered by him. The assessor and collector shall receive such fees and commissions for his services as may be allowed by the ordinances of the city.

Sec. 24. The city council shall have power, from time to time, to require other and further duties of all officers,

whose duties are herein prescribed, and to define and prescribe the powers and duties of all officers appointed or elected to any office under this act, whose duties are not herein specially mentioned, and fix their compensation. They may also require bonds to be given to the said corporation by all officers for the faithful performance of their duties. The city council shall provide for filling vacancies in all offices, not herein provided for, and in all cases of vacancies, the same shall be filled only for the unexpired term.

Chapter IV—Of the City Council—Its General Powers and Duties.

Sec. 25. The mayor and aldermen shall constitute the city council of the city. The city council shall meet at such times and places as they shall by resolution direct. The mayor when present shall preside at all meetings of the city council, and shall have in all cases a casting vote, except in elections. In his absence and absence of president pro tem., any one of the aldermen may be appointed to preside.

Sec. 26. The city council shall hold stated meetings, and the mayor, of his own motion, or on the application of three aldermen, may call special meetings, by notice to each of the members of said council, the secretary and city attorney, served personally or left at their usual place of abode. Petitions and remonstrances may be presented to the council in writing only, and the council shall determine the rules of its proceedings, and be the judge of the election and qualifications of its own members, and have the power to compel the attendance of absent members, and punish them for disorderly conduct.

Sec. 27. The city council shall have the management and control of the finances and other property, real, personal and mixed, belonging to the corporation.

Sec. 28. The city council shall have power to appropriate money, and provide for the payment of debts and expenses of the city.

Sec. 29. To provide by ordinance special funds for special purposes, and to make the same disbursable only for the purpose for which the fund was created; and any officer of the city misappropriating said special funds shall be deemed guilty of malfeasance in office, and shall, on complaint of any one interested in said funds misappro-

priated, be removed from office, and be incapable thereafter to hold any office in said city; and shall, on conviction before any court of competent authority, be fined in a sum not exceeding five hundred dollars, and be imprisoned not exceeding six months.

Sec. 30. To make regulations to prevent the introduction of contagious disease into the city, to make quarantine laws for that purpose, and to enforce them within the city and within ten miles thereof.

Sec. 31. To provide, or cause to be provided, the city with water, to make, regulate and establish public wells, pumps and cisterns, hydrants and reservoirs, in the streets or elsewhere, within said city, or beyond the limits thereof, for the extinguishment of fires and the convenience of the inhabitants, and to prevent the unnecessary waste of water.

Sec. 32. To have the exclusive control and power over the streets, alleys and public grounds and highways of the city, and to abate and remove encroachments or obstructions thereon; to open, alter, widen, extend, establish, regulate, grade, clean, or otherwise improve said streets; to put up drains or sewers therein, and to prevent the incumbering thereof, in any manner, and to protect the same from any encroachment or injury; and to regulate and alter the grade of premises, and to require the filling up and raising of the same.

Sec. 33. To establish, erect, construct, regulate and keep in repair bridges, culverts and sewers, sidewalks and crossways, and to regulate the construction and use of the same, and to abate and punish any obstructions or encroachments thereon; and the cost of construction of sidewalks shall be defrayed by the owner of the lot, or part of lot or block, fronting on the sidewalk; and the cost of any sidewalk constructed by the city, shall be collected, if necessary, by the sale of the lot, or part of lot or block on which it fronts, together with the cost of collection, in such a manner as the city council may, by ordinance provide; and a sale of any lot or part of lot or block to enforce collection of costs of sidewalks, shall convey a good title to the purchaser, and the balance of proceeds of sale, after paying the amount due the city and costs of sale, shall be paid by the city to the owner.

Sec. 34. To provide for lighting the streets, and erecting lamp-posts and lamps therein, and regulating the light-

ing thereof, and from time to time create, alter or extend lamp districts; to exclusively regulate, direct and control the laying and repairing of the gas pipes and gas fixtures in the streets, alleys, sidewalks and elsewhere.

Sec. 35. To establish or erect, or cause to be established or erected, markets and market houses, designate, control and regulate market places and privileges, inspect and determine the mode of inspecting meat, fish, vegetables and all produce, and every article and thing therein bought for sale.

Sec. 36. To provide for the enclosing, regulating, and improving all public grounds and cemeteries belonging to the city, and to direct and regulate the planting and preserving of ornaments and shade trees in the streets, sidewalks or public grounds.

Sec. 37. To erect or establish one or more hospitals, and control and regulate the same; regulate, or prohibit and permit the establishment of private hospitals.

Sec. 38. To regulate the carrying of weapons, and to prevent the carrying of the same concealed.

Sec. 39. To prevent the encumbering of the streets, alleys, sidewalks and public grounds, with carriages, wagons, carts, hacks, buggies, or any vehicle whatsoever, boxes, lumber, timber, firewood, posts, awnings, signs or any other substance or material whatever, or in any other manner whatever; to compel all person to keep all weeds, filth and any kind of rubbish from the sidewalks and streets and gutters in front of the premises occupied by them; to require and compel the owners of property to fill up, grade, gravel and otherwise improve the sidewalks in front of and adjoining their property; also to inspect the construction of buildings, and to cause unsafe buildings to be made safe or be removed, and to prohibit the use of certain materials deemed unsafe.

Sec. 40. To license, tax and regulate merchants, commission merchants, hotel and inn keepers, drinking houses or saloons, bar rooms, beer saloons, and all places or establishments where intoxicating or fermented liquors are sold; brokers, money brokers, real estate agents, insurance agents, insurance brokers and auctioneers, and all other trades, professions, occupations and callings, the taxing of which is not prohibited by the constitution of the State, which tax shall not be construed to be a tax on property.

Sec. 41. To license, tax and regulate, or suppress and

prevent hawkers, peddlers, pawnbrokers and keepers of theatrical or other exhibitions, shows and amusements.

Sec. 42. To license, tax and regulate, or prohibit theatres, circuses, the exhibitions of common showmen, and of shows of any kind, and the exhibition of natural or artificial curiosities, caravans, menageries and musical exhibitions and performances.

Sec. 43. To license, tax and regulate hackmen, draymen, omnibus drivers and drivers of baggage wagons, porters and all others pursuing like occupation, with or without vehicles, and prescribe their compensation, and provide for their protection, and make it a misdemeanor for any person to attempt to defraud them of any legal charge for services rendered, and to regulate, license and restrain runners for railroads, stages and public houses.

Sec. 44. To license, tax and regulate billiard tables, pin alleys, ball alleys; to suppress and restrain disorderly houses, tippling shops and groceries, gambling and gaming houses, lotteries and all fraudulent devices and practices, and prohibit bawdy houses of prostitution, or assignation, within the limits of the city.

Sec. 45. To authorize the proper officer of the city to grant and issue licenses, and to direct the manner of issuing and registering thereof, and the fees and charges to be paid therefor; no license shall be issued for a longer period than one year, and shall not be assignable, except by permission of the city council.

Sec. 46. To restrain, regulate and prohibit the selling or giving away indirectly, to evade a tax or penalty, of intoxicating or malt liquors, by any person, within the city, except by persons duly licensed; to forbid or punish the selling or giving away of any intoxicating or malt liquors to any minor, apprentice or habitual drunkard.

Sec. 47. To close drinking houses, saloons, bar rooms, beer saloons and all places or establishments where intoxicating or fermented liquors are sold, on Sundays, and prescribe hours for closing them; and also all places of amusement and business.

Sec. 48. The city council shall have full power, by ordinance, to prevent the sale or giving away of any intoxicating liquors in any house or other place where theatrical or dramatic representations are given, and also to prevent intoxicating liquors of any description from being brought

into any house or place where such representations are given, under any pretext whatsoever.

Sec. 49. To make such rules and regulations in relation to butchers as they may deem necessary and proper.

Sec. 50. To regulate the inspection of beef, pork, flour, meal, salt and other provisions, whisky and other liquors to be sold in barrels, hogsheads, and other vessels and packages; to appoint weighers, gaugers and inspectors, and prescribe their duties and regulate their fees.

Sec. 51. To regulate the weight and quality of the bread to be sold or used within the city.

Sec. 52. To create, establish and regulate the police of the city; to appoint watchmen and policemen, and prescribe their duties and powers and compensation.

Sec. 53. To suppress and prevent any riot, affray, noise, disturbance or disorderly assembly in any public or private place within the city.

Sec. 54. To prevent, prohibit and suppress horse racing, immoderate riding or driving in the streets; to prohibit and punish the abuse of animals, to compel persons to fasten their horse[s] or other animals, attached to vehicles or otherwise, while standing or remaining in the streets.

Sec. 55. To restrain and punish vagrants, mendicants, street beggars and prostitutes.

Sec. 56. To establish and regulate public pounds, and to regulate, restrain and prohibit the running at large of horses, mules, cattle, sheep, swine, goats, and to authorize the distraining, impounding and sale of the same for the costs of the proceedings and the penalty incurred, and to order their destruction when they cannot be sold, and to impose penalties on the owners thereof for a violation of any ordinance.

Sec. 57. To tax, regulate or restrain and prohibit the running at large of dogs, and to authorize their destruction when at large contrary to ordinances, and to impose penalties on the owners or keepers thereof for violations of such ordinances.

Sec. 58. To prohibit and restrain the firing of fire-crackers, guns and pistols, use of velocipedes, or use of any pyrotechnic or any other amusement or practices tending to annoy persons passing in the streets or sidewalks, or to frighten horses or teams; to restrain and prohibit the ringing of bells, blowing of horns and bugles, crying of goods, and all other noises, practices and performances

tending to the collection of persons on the streets and sidewalks by auctioneers and others, for the purpose of business, amusement or otherwise.

Sec. 59. To abate all nuisances which may injure or affect the public health or comfort in any manner they may deem expedient.

Sec. 60. To do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease.

Sec. 61. To compel the owner or occupant of any grocery, soap, tallow or chandler establishment or blacksmith shop, tannery, stable, slaughter-house, distillery, brewery, sewers, privy, hide houses or other unwholesome or nauseous house or place, to cleanse, remove or abate the same, as may be necessary for the health, comfort and convenience of the inhabitants.

Sec. 62. To direct the location of business, tanneries, blacksmith shops, foundries, livery stables, and any manufacturing establishment; to direct the location and regulate the management and construction of, restrain, abate and prohibit within the city slaughtering establishments and hide houses, or establishments for keeping or curing hides, establishments for making soap, for steaming or rendering lard, tallow, offal, and such other substances as may be rendered; and all other establishments or places where any nauseous, offensive or unwholesome business may be carried on.

Sec. 63. To regulate the burial of the dead, to purchase, establish and regulate one or more cemeteries; to regulate the registration of deaths, marriages and births; to direct the returning and keeping of bills of mortality.

Sec. 64. To abate and remove nuisances, and to punish the authors thereof, by penalties, fines and imprisonment, and to define and declare what shall be nuisances, and authorize and direct the summary abatement thereof.

Sec. 65. To erect and establish one or more workhouses, or houses of correction, within or without the city limits; make all necessary rules and regulations thereof, and appoint all necessary keepers or assistants. In such workhouse or house of correction, may be confined all vagrants, stragglers, idle, suspicious and disorderly persons, who may be committed by the mayor or recorder: and any person who shall fail or refuse to pay the fine penalty or costs imposed for any misdemeanor or breach of any ordinance

of the city, may, instead of being committed to jail, be kept therein subject to labor and confinement.

Sec. 66. To compel and force all offenders against any ordinance of this city, found guilty by the recorder or mayor, and sentenced to fine and imprisonment, to labor on the streets and alleys of said city or on any public work, under such regulations as may, by ordinances, be established.

Sec. 67. To prevent all trespasses, breaches of the peace and good order, assaults and batteries, fighting, quarreling, using abusive, obscene, profane and insulting language, misdemeanors and all disorderly conduct, and punish all persons thus offending.

Sec. 68. To prevent and punish the keeping of houses wherein indecent, loud or immodest dramatic or theatrical representations are given, of houses of prostitution within the city, and to adopt summary measures for the removal or suppression of all such establishments.

Sec. 69. To require the owner of private drains, sinks and privies to fill up, cleanse, drain, alter, relay, repair, fix and improve the same, as may be ordered by any resolution or ordinance of said city; and in the event of any failure, neglect or refusal to comply with any such order, the party so failing shall be liable to fine and imprisonment. In the event of there being no person in the city on whom such order can be served, the city may have such work done and such improvements made on account of the owner thereof, and all costs, charges and expenses shall be a lien on the property, on the filing of a memorandum by the mayor, under the seal of the corporation thereof, and recording the same with the clerk of the district court; and the city may enforce said lien and institute suit in the corporate name, and obtain judgment against said party for the amount so due as aforesaid in any court having jurisdiction.

Sec. 70. To direct and control the laying and constructing of railroad tracks, turn-outs and switches, or prohibit the same, in the streets, avenues and alleys, unless the same shall have been authorized by law, and the location of depots within the city; to require that railroad tracks, turn-outs and switches, shall be so constructed as to interfere as little as possible with the ordinary travel and use of streets, avenues and alleys, and that sufficient space shall be left on either side of said track

for the safe and convenient passage of teams, carriages and other vehicles, and persons; to require railroad companies to keep in repair the streets, avenues or alleys through which their track may run, and if ordered by the city council to construct and keep in repair suitable crossings at the intersection of streets, avenues and alleys, and ditches, sewers and culverts, when the city council shall deem it necessary; to direct the use and regulate the speed of locomotive engines within said city, or to prevent and prohibit the use or running of the same within the city; provided, that the provisions of this section shall apply to railroads known as steam railroads, and not to city, street or horse railroads.

Sec. 71. The city council shall have power to assess and collect the ordinary municipal taxes upon city or horse railroads, and to compel said city railroad companies to keep their roads in repair, and to make them conform to the grades of the streets upon which their tracks may be laid, whenever said streets shall have been graded by the city, and to restrain the rate of speed so as not to exceed seven miles per hour, and to compel said city railroads to supply ample accommodation for the safe and convenient travel of the people on the street where their track may run; the city council may enforce these regulations by proper ordinances, with suitable penalties for any violation of said ordinances.

Sec. 72. To prevent any person from bringing, depositing or having within the limits of said city any dead carcass, or any other offensive or unwholesome substances or matter, and to require the removal or destruction, by any person who shall have placed or caused to be placed upon or near his premises, or elsewhere, of any substance or matter, filth, or any putrid or unsound beef, pork or fish, hides or skins of any kind; and on his default, to authorize the removal or destruction thereof, by some officer of the city, and require the owner of any dead animal to remove the same to such place as may be designated.

Sec. 73. To prevent, regulate and control the driving of cattle, horses and all other animals, into or through the city.

Sec. 74. The city council shall have power to pass, publish, amend or repeal all ordinances, rules and police regulations, not contrary to the Constitution of this State.

for the good government, peace and order of the city, and the trade and commerce thereof, that may be necessary or proper to carry into effect the powers vested by this act, in the corporation, the city government, or in any department or officer thereof; to enforce the observance of all such rules, ordinances and police regulations, and to punish violations thereof by fines, penalties and imprisonment in the prison, workhouse or house of correction, or to work on the streets or other public works, or either, in the discretion of the court before whom conviction may be had; but no fine or penalty shall exceed one hundred dollars, nor the imprisonment more than fifteen days for any offense, unless a larger fine and longer period of imprisonment is herein allowed; and for any fine, penalty and costs, imposed by the mayor or recorder, in the trial of any cause or complaint before him, execution may issue to collect such fine and costs, to be levied and executed in the same manner that executions are from the district court. The same shall be issued by the mayor or recorder to the marshal, who, in levying on property and selling, shall have like power and authority as the sheriff of the county in executions issued from the district court; and the laws of the State, so far as applicable, shall apply to, and be in full force and effect, as to the executions issued from the mayor's or recorder's court; and the marshal, in executing the same, any person upon whom any fine or penalty is imposed, may be committed until the payment of the same, with costs, and in default thereof may be imprisoned in the city prison, or workhouse, or house of correction, or may be required to work on the streets or other public work of the city for such time and in such manner as may be provided by ordinance; provided, such imprisonment shall not exceed fifteen days, unless a longer period is herein allowed.

Sec. 75. To pass all necessary ordinances to provide for funding the whole or any part of the existing debt of the city, or of any future debt, by cancelling the evidences thereof, and issuing to the holders or creditors notes, bonds or treasury warrants, with or without coupons, bearing interest at any annual rate not to exceed ten per cent. The council shall also provide by ordinance for issuing the bonds of the city in such sums as may be agreed upon for railroad subsidies heretofore voted, or that may be hereafter voted in accordance with the laws of this State.

Sec. 76. To appropriate so much of the revenues of the city, emanating from whatever source, for the purpose of retiring and discharging the accrued indebtedness of the city, and for the purpose of improving the public markets and streets, erecting and conducting city hospitals, city hall, water works, and so forth, as they may from time to time deem expedient; and in furtherance of these objects, they shall have power to borrow money upon the credit of the city, and issue coupon bonds of the city therefor, in such sum or sums as they may deem expedient, to bear interest not exceeding ten per cent. per annum, payable semi-annually at such place as may be fixed by city ordinance; provided, that the aggregate amount of bonds issued by the city council shall, at no time, exceed six per cent. of the value of the property within said city subject to ad valorem tax.

Sec. 77. All bonds shall specify for what purpose they were issued, and shall not be invalid if sold for less than their par value; and when any bonds are issued by the city, a fund shall be provided to pay the interest and create a sinking fund to redeem the bonds, which fund shall not be diverted nor drawn upon for any other purpose, and the city treasurer shall honor no draft on said fund except to pay interest upon, or redeem the bonds for which it was provided.

Sec. 78. Said bonds shall be signed by the mayor and countersigned by the secretary, and payable at such places, and at such times as may be fixed by ordinance of the city council, not less than ten, nor more than fifty years.

Sec. 79. It shall be the duty of the mayor, whenever any bond or bonds are issued, to forward the same to the Comptroller of the State, whose duty it shall be to register said bond or bonds in a book kept for that purpose, and to endorse on each bond so registered, his certificate of registration, and to give, at the request of the mayor, his certificate, certifying to the amount of bonds so registered in his office up to date.

Sec. 80. That it shall be the duty of the mayor, at the time of forwarding any of said bonds for registration, to furnish the Comptroller with a statement of the value of all taxable property, real and personal, in the city; also with a statement of the amount of tax levied for the payment of interest, and to create a sinking fund. It is here-

by made the duty of the Comptroller to see that a tax is levied and collected by the city, sufficient to pay the interest semi-annually on all bonds issued, and to create a sinking fund sufficient to pay the said bonds at maturity, and that said sinking fund is invested in good interest-bearing securities.

Chapter V—On Taxation.

Sec 81. The city council shall have power within the city, by ordinance, to annually levy and collect taxes, not exceeding one per cent., on the assessed value of all real and personal estate and property in the city, not exempt from taxation by the Constitution and laws of the State; provided, that by consent of two-thirds (2-3) of the qualified voters of said city, expressed at an election held for that purpose under the provisions of this act, the city council may levy and collect an additional tax of not exceeding one per cent. upon all such property.

Sec. 82. To annually levy and collect a poll tax, not to exceed one dollar, of every male inhabitant of said city over the age of twenty-one years, (idiots and lunatics excepted), who is a resident thereof at the time of such annual assessment.

Sec. 83. That the city council shall have power to levy and collect taxes, commonly known as licenses, upon trades, professions, callings and other business carried on, and upon carriages, hacks, coaches, buggies, drays, carts, wagons and other vehicles used in said city, when the same are for public use; that each and every person and firm, engaging in the following trades, professions, callings and business, among others, shall be liable to pay such license tax; but this enumeration shall not be construed to deprive the city council of the right and power to levy and collect other license taxes, and from other persons and firms under the general authority herein granted.

Sec. 84. Every person and firm engaged in selling goods, wares and merchandise; every person and firm selling liquor in quantities over a quart; every person or firm keeping a grog-shop, tippling house, bar room or drinking saloon; every person or firm keeping a place where spirituous liquors, wines, cordials or beer are sold in quantities less than one quart; every person or firm keeping a billiard table, ball alley, or nine or ten pin alley, or any similar game; every person or firm keeping a tavern or hotel, or

boarding house; every person or firm keeping a restaurant, eating house, oyster shop, oyster saloon, or place of any description where eating or refreshments are furnished; every person or firm keeping a livery stable, sale stable, feed or other kind of stable; every person or firm selling goods, wares or merchandise at public auction; every person or firm pursuing the occupation of a real estate broker or agent merchandise or cotton broker, or commission business; every person or firm pursuing the occupation of hawker or peddler of goods or any article whatever; every person or firm keeping a brewery, beer shop or distillery, or fruit stand; every person or firm keeping storage or a warehouse, or engaging in compressing cotton, keeping an intelligence office; each and every insurance company shall also be liable to pay said city such license tax, and each and every insurance agent in said city shall likewise be subject to said license tax, and such agent shall be held responsible therefor, and for each association, corporation or company of which he is agent.

Sec. 85. That each and every firm keeping a lumber, wood or coal yard, or any place for sale of the articles aforesaid, or building material, shall be subject to said license tax, and all other persons from whom the city council may require said tax, under the authority in this act granted; provided, nothing herein contained shall in any wise prevent or restrain the city council from collecting the license, and each license tax hereinbefore provided for by this act; each establishment shall be liable to said license tax; and any person or firm pursuing occupations, business, avocations or calling subject to said tax shall pay on each, and no license shall extend to more than one establishment, or include more than one occupation, avocation, business or calling.

Sec. 86. The city council shall have power to provide by ordinance for the assessing and collecting of the taxes aforesaid, and to determine when taxes shall be paid by corporations, and when by the individual corporators; provided, no tax shall be levied unless by consent of two-thirds of the aldermen elected.

Sec. 87. The license tax shall be collected by the assessor and collector, and shall be paid to that officer by each and every person and firm owing such license, and before engaging in any trade, profession, business, calling, avocation or occupation, subject to said tax; that if any person

shall engage in any business, calling, avocation or occupation, which by an ordinance of the said city is subject to a license tax, without first having obtained said license, he, she or they shall, on conviction before the mayor or recorder's court, be liable to imprisonment or a fine of ten dollars, or both imprisonment and such fine, for each day such violation of said ordinance may continue; and this section shall apply to all persons owing any license and failing to pay the same; provided, that the city council may collect said license tax by suit in any court having jurisdiction, under such rules and regulations as they may provide by ordinance; said taxes commonly known as licenses, laid as herein provided, shall not be construed to be a tax on property within the meaning of section eighty-nine, or any other section of this act.

Sec. 88. That the term real estate or property, as used in this act, shall be construed to include lots, lands, and all buildings or machinery and structures of every kind erected upon or affixed to the same.

Sec. 89. That the term personal estate or property, as used in this act, shall be construed to include all household furniture, moneys, goods, capital, chattels, public stocks and stocks of corporations, moneyed or otherwise, and generally all property which is not real.

Sec. 90. That the city council may, by ordinance, provide for the exemption from taxation of such property as they may deem just and proper; provided, nothing contained in this chapter on taxation, shall be construed to prevent the city council from imposing, levying and collecting special taxes and assessments for the improvement of the avenues, streets and alleys, as hereinafter provided.

Chapter VI—Collection of Taxes.

Sec. 91. That the city council may and shall have full power to provide by ordinance for the prompt collection of all taxes assessed, levied and imposed by this act, and are hereby authorized, and due or becoming due to the said city, and to that end may and shall have full power and authority to sell or cause to be sold, real as well as personal property, and may and shall make all such rules and regulations, and ordain and pass all ordinances as they may deem necessary to the levying, laying, imposing, assessing and collecting of any of the taxes herein provided.

Sec. 92. The city council shall have power by ordinance

to regulate the manner and mode of making out tax lists or inventories or appraisement of property therein, and to prescribe the oath that shall be administered to each person on such rendition of property, and to prescribe how and when property shall thus be rendered, and to prescribe the number and form of assessment rolls, and fix the duties and define the powers of the assessor and collector, and adopt such measures as they may deem advisable to secure the assessment of all property within the limits of said city, and collect the tax thereupon; and may by ordinance provide that any person, firm or corporation, having property subject to taxation or being liable for any tax under the provisions of this act, and neglect to render a list, inventory and appraisement thereof, as required by an ordinance of said city, shall be liable to fine and imprisonment.

Sec. 93. Every person, partnership and corporation owning property within the limits of the corporation, shall, within two months after published notice, hand in to the assessor and collector of the city, a full and complete inventory of the property possessed or controlled by him, her or them, within said limits, not exempt from taxation, on the first day of January of the current year, verified as required by ordinance; and any person failing or refusing to comply with the provisions of this section, shall be liable to fine and imprisonment, and the city council shall, by ordinance, clearly define the duties of taxpayers herein, and make all necessary rules and regulations to secure the rendition of property and the collection of taxes due thereon.

Sec. 94. That it shall be the duty of the city council, annually, at such time as they may determine, to appoint three commissioners, each being a qualified voter, who shall be styled the board of appraisement, and whenever the party rendering property for assessment, and the assessor and collector cannot agree on the valuation of such property, it shall be referred to said board, and their action in appraising the same shall be final; provided, that at the meeting of said board the owner of the property shall be heard; said board shall also appraise all property assessed as unknown or unrendered. The city council shall allow said board such compensation for their services as may be just and reasonable. No person connected with the city

government shall be appointed on said board, and any vacancy shall be filled by the mayor.

Sec. 95. It shall be the duty of the assessor and collector to make out a list of all personal property which has not been given in for assessment, according to the provisions of this act, and assess the same in the name of the owner, if he be known, and if not, then it shall be assessed by description of the property and as unknown owner, and the value of such property shall be determined by the board of appraisement, and the same may be sold as in other cases, if the tax be not paid in the time prescribed by law.

Sec. 96. It shall be the duty of the assessor and collector, at the expiration of the time fixed by ordinance for the rendition of property, to ascertain what property in the city subject to taxation, that has not been rendered, and the same shall be by him presented to the board of appraisement for valuation by said board, and there shall, by him, be entered in a supplement to the assessment roll, as unknown, specifying the year for which said tax is not paid within the time prescribed by law, said property shall be sold at the same time and with like effect as other property.

Sec. 97. Whenever the assessor and collector shall ascertain that any taxable property, real or personal, has not been assessed for the past year, he shall assess the same in his next assessment roll, (in a supplement thereto) at the same rate under which such property should have been assessed for such year stating the year for which such property should have been assessed for, and the taxes thereon shall be collected in the same manner as other assessments. In all cases where any party has omitted to render property for taxation for any former year or years, and such taxes have not been paid, such party shall give such property in for assessment for the years thus omitted and pay such taxes, and the assessor and collector shall enter all such property in a supplement to his next assessment roll, under the head of payments for former years.

Sec. 98. The assessor and collector, after the completion of the assessment roll, as required by ordinance, shall proceed to collect the taxes therein mentioned within the time, and give such notice as may be prescribed by the city council, and for that purpose shall call once upon every

person taxed, or on the agent or attorney of such person at the usual place of his or her residence, office, place of business, or elsewhere, and demand the payment of the tax charged upon his or her person or property, if the person is to be found, and if not, then a written demand, specifying the amount of taxes due, left at the residence with some adult member of the family, shall be a sufficient demand; provided, that if any person thus owing taxes, has no residence, office or place of business, and no agent in the city or known to the assessor and collector, then the said demand shall not be necessary, and the ordinary published notice, required by ordinance, shall be sufficient.

Sec. 99. That if any person shall fail, neglect or refuse to pay the taxes imposed upon him and his property, within the time prescribed by the ordinances of said city, the assessor and collector shall, by virtue of his tax list and assessment roll, levy upon so much property liable to taxation belonging to such person, as may be sufficient to pay his, her or their taxes, and the assessor and collector shall give notice of the time and place of sale by advertisement in writing (if not unknown property), the property and amount of taxes, costs and fees due thereupon; such notice shall be published in some newspaper published in the said city, and at the expiration of such notice, and on the day therein specified, the assessor and collector shall proceed to sell such property at public auction, in front of the courthouse door of the city, or such building as may be used for such purpose; provided, that when real estate is offered for sale the smallest portion of grounds (to be taken from the east side of the premises) shall be sold for which any person will take the same and pay the taxes, costs and fees.

Sec. 100. The assessor and collector shall, when any property has been sold for the payment of taxes, make, execute and deliver a deed for said property to the person or persons purchasing the same, and such deed shall be prima facie evidence in all controversies and suits in relation to the right of the purchase [purchaser,] his, her or their heirs and assigns to the premises thereby conveyed, of the following facts:

First, That the land or lot or portions thereof conveyed was subject to taxation or assessment at the time the same was advertised for sale, and had been listed or assessed in the time or manner required by law.

Second, That the taxes or assessment was not paid at any time before the sale.

Third, That the land, lot, or portion thereof conveyed, had not been redeemed from the sale at the date of the deed, and shall be conclusive evidence of the following facts:

1st. That the land, lot, or portion thereof, sold, was advertised for sale in the manner and for the length of time required by law.

2d. That the property was sold for taxes or assessments as stated in the deed.

3d. That the grantee in the deed was the purchaser.

4th. That the sale was conducted in the manner prescribed by law; and in all controversies and suits involving the title to land claimed and held under and by virtue of such deed, the person or persons claiming title, adverse to the title conveyed by such deed, shall be required to prove, in order to defeat the said title, either that the land was not subject to taxation at the date of the sale, that the taxes or assessment has been paid, that the land had never been listed and assessed for taxation and assessment as required by this act, or some ordinance of the city, or that the same had been redeemed according to the provisions of this act, and that such redemption was made for the use and benefit of the persons having the right of redemption under the law; but no person shall be permitted to question the title acquired by the said deed, without first showing that he, she or they, or the person under whom he, she or they claim title, had title to the land at the time of the sale, or, that the title was obtained after the sale, and that all taxes due upon the lands have been paid by such person or the person under whom he claims title as aforesaid; provided, however, that the owner of such property shall have the right to redeem the same at any time within two years of the day and date of the sale thereof, upon paying to the purchaser double the amount of taxes for which the same was sold, together with the costs of such sale, and double the amount of all taxes paid by the purchaser since such sale. The assessor and collector shall have full power to levy upon any personal property to satisfy any tax imposed by this act; all taxes shall be a lien upon the property upon which they are assessed, and in case any property levied upon is about to be removed out of the city, the assessor and collector shall proceed to take into

his possession so much thereof as will pay the taxes assessed and costs of collection.

Sec. 101. If from any cause the sale of property levied upon or seized for taxes shall not take place at the time first appointed, the assessor and collector shall appoint some other time, give like notice, and proceed to sell such property in the manner prescribed in the first instance; and in case said property levied upon or seized for taxes cannot be sold on the day advertised, such sale may be postponed from day to day until completed, of which postponement the assessor and collector shall give verbal notice at the expiration of sale each day.

Sec. 102. If at any sale of real or personal property or estate for taxes no bid shall be made for any parcel of land or any goods and chattles, the same shall be struck off to the city, and thereupon the city shall receive, in the corporate name, a deed for said property, and shall be vested with the same right as other purchasers at such sale, and shall have power to sell and convey the same.

Sec. 103. If the real estate of any infant, femme covert or lunatic be sold under this act, the same may be redeemed at any time within one year after such disability be removed.

Sec. 104. That the foregoing provisions of this chapter relating to notices, assessments and collection of taxes on personal property, and all other provisions thereof not inconsistent with this section, shall also apply to real estate, but that no sale of real estate shall take place unless by decree of the district court of the county in which said city is situated, at some regular term thereof; and the city council may by ordinance enact the mode and manner in which such suits for collection of taxes due and unpaid on land shall be instituted, and may have such other and further forms regulating the proceedings necessary for the sale of the land as it thinks best, and is not inconsistent with the laws and Constitution of this State; provided, that no sale shall be made until the owner has thirty days notice thereof; which notice may be given actually by an officer of the city, or by advertisement for sixty days, which advertisement may merely so describe the property as to designate it, and it shall not be necessary to set out the owner's name unless the same is known; and further provided, that such owner, his agent or attorney may redeem said property within two years from the day of sale,

by paying the purchaser or purchasers the full amount of his bid and costs of suit, with interest thereon, at the rate of twelve per cent. per annum from day of sale; and further, provided, the purchaser or purchasers may apply to the district court at any time after said expiration of two years for confirmation of sale, and which said decree of confirmation shall vest full and absolute title in the purchaser or purchasers of said property, their heirs or assigns; and said district court shall take and exercise all jurisdiction required to carry this into effect, and such ordinances as may be passed by the city council relative to the subject matter.

Chapter VII—Fire Department.

Sec. 105. The city council, for the purpose of guarding against the calamities of fire, may prohibit the erection, building, placing, moving or repairing of wooden buildings within such limits within said city as they may designate and prescribe; and may within said limits prohibit the moving or putting up of any wooden building from without said limits, and may also prohibit the removal of any wooden building from one place to another within said limits, and may direct, require and prescribe that all buildings within the limits so designated and prescribed as aforesaid, shall be made or constructed of fire proof materials, and to prohibit the rebuilding or repairing of wooden buildings within the fire limits when the same shall have been damaged to the extent of fifty per cent. of the value thereof, and may prescribe the manner of ascertaining such damage; may declare all the dilapidated buildings to be nuisances, and direct the same to be repaired, removed or abated in such manner as they shall prescribe and direct; to declare all wooden buildings in the fire limits, which they deem dangerous to contiguous buildings, or in causing or promoting fires, to be nuisances, and require and cause the same to be removed in such manner as they shall prescribe.

Sec. 106. The city council shall have power to prevent and prohibit the dangerous condition of chimneys, flues, fire-places, stove-pipes, ovens, or any other apparatus used in or about any building or manufactory, and to cause the same to be removed or placed in a secure and safe condition when considered dangerous.

Sec. 107. To prevent the deposit of ashes in places where they would be liable to produce fire, or in any wooden box

or barrel, or within any wooden building, and to appoint one or more officers to enter into all buildings and enclosures, to examine and discover whether the same are in a dangerous state, and to cause such as may be dangerous to be put in safe condition.

Sec. 108. To require the inhabitants to keep and provide as many fire-buckets and ladders, or other means to reach the roof, as they shall prescribe, and to regulate the use thereof in times of fire.

Sec. 109. To regulate or prevent the carrying on of manufactories and works dangerous in promoting or causing fires; to prohibit or regulate the building and erection of cotton presses and sheds.

Sec. 110. To regulate or prevent and prohibit the use of fireworks and firearms.

Sec. 111. To direct, control or prohibit the keeping and management of houses or any buildings for the storing of gun powder and other combustible, explosive or dangerous materials within the city; to regulate the keeping and conveying of the same.

Sec. 112. To regulate and prescribe the manner, and to order the building of parapet and partiwalls.

Sec. 113. To compel the owners or occupants of houses or other buildings to have scuttles in the roofs, and stairs or ladders leading to the same.

Sec. 114. To authorize the mayor, officers of fire companies, or any officer of said city to keep away from the vicinity of any fire, all idle, disorderly and suspicious persons, and arrest and imprison the same, and compel all officers of the city, and all other persons, to aid in the extinguishment of fires and in the preservation of property exposed to danger thereat, and in preventing goods from being stolen.

Sec. 115. And generally to establish such regulations for the prevention and extinguishment of fires as the city council may deem expedient.

Sec. 116. The city council may procure fire engines and other apparatus for the extinguishment of fires, and have control thereof, and provide engine houses for keeping and preserving the same; and shall have power to organize fire, hook and ladder, hose and axe companies, [and] fire brigade; and the companies so organized, with such assistant engineers as may be provided for, and the chief engineer, shall constitute the fire department of the city.

Each company shall have the right to elect its own members and officers. The engineers shall be chosen in such manner as said department may determine, subject to the approval of the city council, who shall define the duties of said officers, and pass such ordinances as they may deem proper for the interest and welfare of said department, and to contribute to the efficiency thereof; all officers so elected and approved, shall be commissioned by the mayor, and the said companies, officers and members, shall observe and be governed by the ordinances of said city relating to the fire department; said companies shall have power to adopt their own constitution and by-laws not inconsistent with the provisions of this act and the ordinances of said city, and said department shall take the care and management of the engines, and other implements and apparatus provided and used for the extinguishment of fires, and their powers and duties shall be prescribed and defined by the city council.

Sec. 117. When any building in the city is on fire, it shall be lawful for the chief or acting chief engineer, with the concurrence of the mayor, to direct such building, or any other buildings which they may deem hazardous and likely to take fire and communicate to other buildings, to be torn down or blown up or destroyed, and no action shall be maintained against any person or against the city therefor, but any person interested in any such building so destroyed or injured may within six months, and not thereafter, apply in writing to the city council to assess and pay the damage he has sustained, and if the city council and the claimant cannot agree on the terms of adjustment, then the application of such claimant shall be referred to three commissioners, one to be appointed by the claimant, one by the city council, and the third by both. They shall be sworn faithfully to execute their duty according to the best of their ability, shall have power to subpoena and swear witnesses, and shall give all parties a fair and impartial hearing, and give notice of time and place of meeting; said commissioners shall be qualified voters and owners of real estate in the city, shall take into account the probabilities whether the said building would have been destroyed by fire if it had not been so pulled down or destroyed, and the loss of insurance upon said property, if any, caused by pulling down, blowing up or destroying said building, and may report that no damage

should equitably be allowed to such claimant. Whenever a report shall be made, and finally confirmed for the appraising said damages, a compliance with the terms thereof by the city council shall be deemed a full satisfaction of said damages.

Sec. 118. Every person actively serving as a fireman shall be exempt from jury duty, and who shall have so served as a fireman in the city for a continuous term of seven years, shall be exempt from all militia duty, except in cases of insurrection or invasion; a certificate of the mayor, under the city seal, shall be evidence of such exemption; the engineer and assistant engineers, and members of hook and ladder, hose and axe companies, fire-brigade and fire wardens, shall be deemed firemen of the city, within the meaning of this section.

Chapter VIII.—Of Sanitary Regulations.

Sec. 119. The city council may appoint a health physician, and as many health inspectors as they may deem necessary, and shall prescribe, by ordinance, the powers and duties and compensation of the same.

Sec. 120. The city council shall have power to take such measures as they may deem effectual to prevent the entrance of any pestilence, contagious or infectious diseases into the city; to stop, detain and examine, for that purpose, any person coming from any place infected or believed to be infected with that disease; to establish, maintain and regulate pest houses or hospital at some place within the city, or not exceeding five miles beyond its bounds; to cause any person who shall be suspected of being infected with any such disease to be sent to such pest house or hospital; to remove from the city or destroy any furniture, wearing apparel, or property of any kind which shall be suspected of being tainted or infected with pestilence, or which shall be likely to pass into such a state as to generate or propagate diseases; to abate all nuisances of every description which are or may become injurious to the public health, in any manner that they may deem expedient; and from time to time, do all acts, make all regulations and pass all ordinances which they shall deem expedient for the preservation of health and the suppression of disease in the city.

Sec. 121. The owner, driver, conductor or person in charge of any stage, railroad car or public conveyance,

which shall enter the city, having on board any person sick of a malignant fever, or pestilential, contagious or infectious disease, unless such person became sick on the way and could not be left, shall be deemed guilty of a misdemeanor, punishable with fine and imprisonment; or either such owner, driver, conductor or person in charge, shall, within three hours after the arrival of such sick person, report in writing the facts, with the name of such person and the house where he was put down in the city, to the health physician; and every neglect to comply with these provisions, shall be a misdemeanor, punishable by fine and imprisonment, or either.

Sec. 122. Any person who shall bring, or cause to be brought into the city, any person or property of any kind, tainted or infected with malignant fever, or pestilential or infectious disease, shall be guilty of a misdemeanor, and punishable by fine and imprisonment, or either.

Sec. 123. Every keeper of any inn, hotel, tavern, boarding or lodging house in the city, in which any inmate thereof shall be sick with small-pox, varioloid, yellow fever, or other infectious or pestilential disease, shall, upon such fact coming to his knowledge, forthwith report the same to the health officer. Every physician in the city shall report under his hand, to the officer above named, the name, residence and disease of every patient whom he shall have sick of any infectious or pestilential disease, within six hours after he shall have visited such patient. A violation of either of the provisions of this section, or any part of either of them, shall be a misdemeanor, punishable by fine and imprisonment, or either.

Sec. 124. The city council shall have power to require the filling up, draining and regulating of any lot or lots, grounds or yards, or any other places in the city, which shall be unwholesome, or have stagnant water therein, or from any other cause, be in such condition as to be liable to produce disease; also, to cause all premises to be inspected, and to impose fines on the owners of houses under which such stagnant water may be found, and to pass such ordinances as they shall deem necessary for the purpose aforesaid, and for the making, filling up, altering or repairing of all sinks and privies, and directing the mode and material for constructing them in future, and for cleansing and disinfecting the same; and for cleansing of any house, building, establishment, lot, yard or ground,

from filth, carrion or impure or unwholesome matter of any kind, and to punish any owner or occupant violating the provisions of any ordinance so passed, as aforesaid; and the city council shall, also, in addition to the foregoing remedy, have the power to cause any of the improvements above mentioned to be done at the expense of the city, on account of the owners, and cause expenses to be assessed on the real estate, or lot or lots, benefited thereby; and on filing with the district clerk of the county in which the city is situated a statement, by the mayor, of such expenses, shall have a first and privileged lien on such property, to secure such expenditure, and twelve per cent. interest thereon. For any such expenditures and interest, as aforesaid, suit may be instituted and recovery had in the name of the corporation, in any court having jurisdiction, and the statement so made, as aforesaid, or a certified copy thereof, shall be full proof and satisfactory evidence of the amount expended in any such improvement.

Sec. 125. The health physician may be authorized by the city council, when the public interest requires, to exercise for the time being such of the powers and perform such of the duties of the chief of police as the city council may in their discretion direct, and authorized to enter all houses and other places, private or public, at all times, in the discharge of his duties, under this act, having first asked permission of the owners or occupants; the city council shall have power to punish, by fine and imprisonment, or either, any neglect or refusal to observe the orders and regulations of the health physician.

Chapter IX.—Streets and Alleys.

Sec. 126. The city council shall be invested with full power and authority to grade, gravel, repair, pave or otherwise improve any avenue, street or alley, or any portion thereof, within the limits of said city, whenever, by a vote of two-thirds of the aldermen present, they may deem such improvement for the public interest; provided, the city council pay one-third and the owners of the property two-thirds thereof, except at the intersections of streets, from lot to lot across the streets, either way, shall be paid for by the city alone; and said cost shall be assessed on the property fronting on said street so improved, to be collected in equal annual payments, not less than five in num-

ber, and all moneys collected from these assessments shall be appropriated exclusively to the payment of the bonds issued for the payment of the cost of said improvement.

Sec. 127. That whenever the city council shall determine to make any such improvement they shall cause an estimate to be made of the probable cost thereof by the city engineer, or by some other officer of the city, or by a committee of three aldermen; and such other officer or committee shall also report a full list of all lots or fractional lots, giving number and size of the same, and the number of the block in which situated, and the names of the owners thereof, if known, and such other information as may be required by the city council, and if there be any lot or fractional lot, the owner of which is not known, the same shall be entered on said list as unknown; it shall be the duty of the officer or committee aforesaid to enter on said list, opposite each lot or fractional lot lying and being on each side of the street, avenue or alley so to be improved as aforesaid, one-third of the estimated expense for such work or improvement on such avenue, street or alley, fronting, adjoining or opposite such lot or fractional lot; and on the acceptance and approval of said report and list by the city council, said amount shall be imposed, levied and assessed as taxes, and shall be a lien upon the property until the payment of the same.

Sec. 128. That after such action on the part of the city council as above provided for, such officer or committee shall give that notice as may be required by ordinance, of said tax being due, and within what time payable, and shall commence forthwith to collect the same. That after the expiration of the period for payment of said tax, said officer or committee shall levy on so much of any property on said list on which said tax has not been paid, as will be sufficient to pay the same, and the same notice of sale as is required in sales for other tax shall be given; and if said tax be not paid before the day of sale, said officer or committee shall sell said property in the name and under the circumstances, and to the extent and subject to the same conditions which are or may be provided by ordinance for the sale of real estate in the city, charged with the payment of taxes imposed by the said corporation; and said officer or committee shall execute a deed to the purchaser at any such sale, and all the provisions of this act in reference to

a. deed drawn by the assessor and collector shall apply to the deed provided for in this section.

Sec. 129. That in addition to the power and authority granted to the city council to collect said assessment of taxes, as aforesaid, they shall have the further power and additional remedy of instituting suit in the corporate name in any court having jurisdiction, for the recovery against any owner of property for the amount due for any such work, so made as aforesaid; and the city council shall provide by resolution or ordinance under the provisions of this act for carrying out and executing the powers in this chapter conferred, and may adopt such resolutions and enact such ordinances, and make such regulations as they may deem necessary.

Sec. 130. When it is necessary, such necessity to be determined by the city council, to take private property for opening, widening or altering any public street, avenue or alley, the corporation shall make a just compensation therefor to the person whose property is so taken; if the amount of such compensation cannot be agreed upon, the city council, upon its own motion, or upon the application of the owner whose land has been or is to be taken, shall appoint three disinterested freeholders of the city, who shall appoint a time and place to hear the matter in controversy between the corporation and said owner, to whom reasonable notice shall be given of said time and place; and said freeholders shall, after being sworn faithfully to discharge their duties as appraisers, and after hearing the parties, determine the amount of compensation as aforesaid, and make return of their award to the city council at its next meeting. The rule for ascertaining the amount of such compensation, shall be the intrinsic value of the land taken, without reference to the profit or advantage that he may derive from the opening, widening or altering said street, avenue or alley. The owner of the land so taken, is also entitled to such damages, if any, as are occasioned to the remainder of the tract of which the land taken was a part, by reason of its appropriation for the purpose for which it was taken. In estimating these damages, the benefit and advantage that the remainder of the tract will derive from the opening, widening or altering said street, avenue or alley, are legitimate subjects of consideration, and are to be estimated in determining the true amount of damages that have accrued or will accrue, to the owner by

the appropriation of his property for the purposes for which it is or has been taken. But this does not affect the claim for the intrinsic value of the land taken. The city council by tendering to the owner of the land so appraised, the amount of the award reported by said appraiser, may at once enter upon and appropriate said land to the purpose of opening, widening or altering said street, and so forth.

Chapter X—Miscellaneous Provisions.

Sec. 131. Whenever in the opinion of the city council, any building, fence, shed, awning or any erection of any kind or any part thereof, is liable to fall down and endanger persons or property, they may order any owner or agent of the same, or any owner or occupant of the premises on which such building, shed, awning or other erection stands, or to which it is attached, to take down and remove the same or any part thereof, within such time as they may direct, and to punish by fine and imprisonment, or either, any neglect, failure or refusal to comply therewith. The city council shall, in addition, have the power to remove the same at the expense of the city on account of the owner of the property or premises, and assess the expenses on the land on which it stood, or to which it was attached; and shall, by ordinance, provide for such assessment, the mode and manner of giving notice, and the means of recovering any such expenses.

Sec. 132. That writs issued by the mayor or recorder of said city for offenses against the laws, may be executed, and the accused person or persons arrested by the marshal or his deputies anywhere within the county in which such city is situated.

Sec. 133. Whenever any person has been required by the mayor or recorder to give a peace bond, or a bond for good behavior, or any similiar bond under this act, and has complied with such orders, and been guilty of a violation or infraction of such bond, and the same is proved or established to the satisfaction of that officer in any trial or complaint, such party so offending may be fined in the sum of two hundred dollars and imprisonment for two months; and the city in its corporate name may sue in any court having jurisdiction for the recovery of the penalty of such bond.

Sec. 134. The wards of each city accepting the pro-

visions of this act shall be and remain unchanged by its acceptance; provided, that the city council shall have power from time to time to cause a division of said city to be made into as many wards as they may deem necessary, and for the good of the inhabitants of said city, and may change the boundaries of the same; but no such division or change shall be made unless it be done at least three months preceding the city election next ensuing, and said wards so established shall contain as far as practicable an equal number of voters.

Sec. 135. In all cases where, by any provision of this act or by ordinance passed in pursuance thereof, a person is required to obtain a license for any calling, occupation, business or avocation, and has, on complaint before the mayor or recorder, been adjudged guilty of violating any rule, regulation or ordinance of the city council in relation thereto, the mayor or recorder, in addition to fine and imprisonment, or either, may suspend or revoke the license so granted.

Sec. 136. The city council shall, as soon as may be, after the commencement of each municipal year, contract as they may, by ordinance or resolution, determine, with a public newspaper of the city as the official paper thereof and to continue as such until another is elected, and shall cause to be published therein all ordinances, notices and other matters required by this act or by the ordinance of the city to be published.

Sec. 137. The city council shall, at least ten days before the expiration of each municipal year, cause to be published in a city newspaper a correct and full statement of the receipts and expenditures from the date of the last annual report, together with the sources from whence the funds were derived, and showing for what purpose disbursed, the condition of the treasury, together with such information as may be necessary to a full understanding of the financial condition of the city.

Sec. 138. Every ordinance imposing any penalty, fine, imprisonment or forfeiture for violation of its provisions, shall, after the passage thereof, be published in every issue of the official paper for ten days, and proof of such publication by the printer or publisher of such newspaper, taken before any officer authorized to administer oaths, and filed with the secretary, or any other competent proof of such publication, shall be conclusive evidence of the legal publi-

cation and promulgation of such ordinances in all courts; ordinances passed by the city council and requiring publication shall be in force from and after the publication thereof, unless it be therein otherwise expressly provided; ordinances not requiring publication shall take effect and be in force from and after their passage, unless it shall be therein otherwise expressly provided.

Sec. 139. All ordinances of the city, where printed and published by authority of the city council, shall be admitted and received in all courts and places without further proof.

Sec. 140. The style of all ordinances shall be, "Be it ordained by the city council of the city of ——" (inserting the name of the city); but it may be omitted when published in the form of a book or pamphlet.

Sec. 141. All ordinances, regulations or resolutions in force in any city [accepting], excepting the provisions of this act, and not in conflict with this act, shall remain in force under this act, until altered, amended or repealed by the city council, after this act shall take effect.

Sec. 142. All fines, forfeitures and penalties for the breach or violation of this act, or any regulation, order or ordinance of the city council, shall, when collected, be paid into the city treasury for the use and benefit of said city.

Sec. 143. No person other than an elector, resident of the city, shall be appointed to any office by the city council.

Sec. 144. Resignations by any officer authorized to be elected or appointed by this act shall be made to the city council in writing, subject to their approval and acceptance; provided, that nothing in this section shall apply to appointments by the mayor. Any such appointee wishing to resign shall present his resignation to that officer, in writing, for his action.

Sec. 145. The city council shall have power to remove any officer for incompetency, corruption, malconduct or malfeasance in office, after due notice, and an opportunity to be heard in his defense. In addition to the foregoing power of removal, the city council shall have power at any time to remove any officer of the corporation elected by them, by resolution declaratory of its want of confidence in said officer; provided, that two-thirds of the aldermen elected vote in favor of said resolution.

Sec. 146. Whenever any person shall be removed from any office, or the term for which he was elected or appointed has expired, or he has resigned, or has ceased to act in his official capacity, he shall deliver over to his successor all books, papers and effects in any way appertaining to his office. Every person violating this provision shall be guilty of a misdemeanor, and shall be deemed an offender within the meaning of any law of the State punishing such offenses, and in addition thereto he shall, on conviction before the mayor or recorder, be fined in a sum not exceeding five hundred dollars, and imprisoned for any time not exceeding six months, or either. Any officer who shall have been intrusted with the collection or custody of funds belonging to said city, who shall be in default to said city, besides being liable to criminal prosecution and a civil action for debt, shall thereafter be incapable of holding any office under said city, until the amount of his defalcation shall have been fully paid to said city, with twelve per cent. interest.

Sec. 147. No member of the city council shall hold any other employment or office under the city government while he is a member of said council, unless herein otherwise provided, and no member of the city council, or any officer of the corporation, shall be directly or indirectly interested in any work, business or contract, the expense, price or consideration of which is paid from the city treasury, or by an assessment levied by an ordinance or resolution of the city council; nor be the surety of any person having a contract, work or business with said city, for the performance of which security may be required, nor be the security on the official bond of any officer of the city.

Sec. 148. The members of the city council, together with the city secretary, shall be exempt from jury service during their term of office. Each alderman shall be fined three dollars for each meeting which he fails to attend, unless on account of his own sickness or that of his family. Any member of the city council remaining absent for three regular consecutive meetings of the board, unless prevented by sickness, without first having obtained leave of absence at a regular meeting, shall be deemed to have vacated his office, and the mayor shall proceed to fill the vacancy in accordance with the charter.

Sec. 149. The city council shall have power to prescribe the duties of all officers and persons appointed by them or

elected to any office or place whatever subject to the provisions of this act, to remit in whole or in part, and on such conditions as may be deemed proper, by a vote of two-thirds of all the members present, any fine or penalty belonging to the city, which may be imposed or incurred under this act, or under any ordinance or resolution passed in pursuance thereof.

Sec. 150. The city council shall, on or before the first day of January next preceding each and every election after the first under this act, fix the salary and fees of office of the mayor to be elected at the next regular election, and shall at the same time establish the compensation or salary to be paid to the officers elected or appointed by the city council, and the compensation or salary so established shall not be changed during the term for which said officers shall be elected or appointed.

Sec. 151. It shall not be necessary in any action, suit or proceeding in which the city, accepting the provisions of this act, shall be a party, for any bond, undertaking or security to be executed in behalf of the city; but all such actions, suits and proceedings, shall be conducted in the same manner as if such bond, undertaking or security had been given, and for all purposes of such actions, suits and proceedings, the city shall be liable in the same manner, and to the same extent as if the bond, undertaking or security in ordinary cases had been duly given and executed.

Sec. 152. The cemetery lots which have and may hereafter be laid out and sold for said city for private places of burial, shall, with their appurtenances, be forever exempt from taxes, executions, attachments or forced sales.

Sec. 153. All rights, actions, fines, penalties and forfeitures in suits or otherwise, which have accrued under the laws heretofore in force, shall be vested in and prosecuted by the corporation hereby created, and no suit pending shall be effected by the passage and acceptance of this act, but the same shall be prosecuted or defended as the case may be by the corporation hereby created.

Sec. 154. All property, real, personal or mixed, belonging to any city accepting the provisions of this act, is hereby vested in the corporation created by this act, and the officers of said corporation in office at the date of its acceptance shall continue in the same until superseded in conformity with the provisions of this act, from and after it takes effect.

Sec. 155. Whenever a majority of the inhabitants qualified to vote for members of the State Legislature, or any territory adjoining the limits of any city, accepting the provisions of this act, to the extent of one-half mile in width, shall vote in favor of becoming a part of said city, any three of them may make affidavit to the fact, to be filed before the mayor, who shall certify the same to the city council of said city. The said city council may by ordinance receive them as a part of said city; from thenceforth the territory so received shall be a part of said city, and the inhabitants thereof shall be entitled to all the rights and privileges of other citizens, and bonds by the act and ordinances made in conformity thereto and passed in pursuance of this act.

Sec. 156. No indebtedness of any character whatever hereafter incurred by said corporation shall draw a higher rate of interest than ten per cent. per annum.

Sec. 157. The provisions of this act shall not apply to any city within the limits of this State until its acceptance by the city council of such, in accordance with the provisions of section one of this act.

Sec. 158. This act shall take effect and be in force from and after its passage.

Approved March 15th, 1875.

CHAPTER CI.

An Act to make appropriations for the support of the State Government, for the fiscal year beginning September 1, 1875, and ending August 31, 1876.

Section 1. Be it enacted by the Legislature of the State of Texas, That the following sums, or so much thereof as may be necessary, be and the same are hereby appropriated, out of any moneys in the State treasury not otherwise appropriated, for the support of the State Government, for the fiscal year beginning September 1, 1875, and ending August 31, 1876.

Executive Department.

For salary of Governor, \$5000. For salary of private secretary, \$1800. For salary of clerk, \$1200. For recover-

ing fugitives from justice, \$15,000. For telegraphing, \$300. For books and stationery, \$400. For postage, \$200. For porter, \$480. For gardener, \$600. For repairs and furniture for mansion, \$500. For wood, lights, etc., for Executive office, \$400. For gas for mansion, \$200. For traveling expenses for visiting State Penitentiary and Agricultural College, \$200.—\$26,280 00.

State Department.

For salary of Secretary of State, \$3000. For chief clerk, \$1800. For two clerks, \$2400. For books and stationery, \$400. For postage, \$1000. For wood and lights, \$200. For express charges on books exchanged with other States, \$200. For contingent expenses, \$50. For printing, \$30,000. For extra clerks for copying laws for the printer, \$250.—\$39,300 00.

Attorney General's Department.

For salary of Attorney General, \$3000. For salary of Assistant Attorney General, \$3000. For salary of clerks, \$3000. For stationery, \$150. For postage, \$150. For wood and lights, \$100. For fees in felony cases, \$1,000. For contingent expenses, \$300.—\$10,700 00.

Judiciary Department.

For salaries of five Justices, \$4500 each, \$22,500. Clerks' fees in felony cases, \$1500. Librarians, three, \$200 each, \$600. Porter hire, at three places, \$500. Fuel, at three places, \$300. Blank books and stationery, at three places, \$800. Sheriffs' attendance, at three places, \$825. Furniture at three places, \$400. Lights, postage, freights on sending books from place to place, printing notices of assignment, rules of court and other contingent expenses, \$500. Library fund, \$500. For salary of one criminal Judge at Galveston, Sherman, Waco, Paris and Jefferson, \$3500 each, \$17,500. Salary of thirty-five district judges, \$122,500. Salary of thirty-five district attorneys, \$1200 each, \$42,000. Publishing decisions of Supreme Court, \$5000. Salary of one criminal court attorney for Galveston and Harris counties, \$1200. For fees of district attorneys sheriffs and clerks, district and examining courts, \$30,000.—256,625 00.

General Land Office.

For salary of Commissioner, \$3000. For salary of chief clerk, \$2000. For salary of Spanish translator, \$2000. For salary of receiver, \$1800. For salary of examining clerk, \$1400. For salary of calculator, \$1400. For salary of first class assistant clerk, \$1400. For salary of patenting clerk, \$1400. For salary of two clerks for making new abstract, \$1400 each, \$2800. For two filing clerks, \$1300 each, \$2600. For salaries of thirteen clerks, \$13,000. For salary of chief draftsman, \$2000. For salaries of four compiling draftsmen, \$1500 each, \$6000. For salaries of ten assistant draftsmen, \$1200 each, \$12,000. For salary of one night watchman, \$500. For salary of one porter, \$400. For stationery, books, furniture, etc., \$2000. For Spanish law and text books for translator's department, \$300. For postage, \$500. For wood, \$250.—\$46,550 00.

Treasury Department.

For salary of Treasurer, \$3000. Salary of chief clerk, \$1800. Salary of assistant clerk, \$1200. Salary of book keeper, \$1500. Salary of night watchman, \$900. Books and stationery, \$200. Wood and lights, \$100. Postage, \$150. Porter hire for Treasurer and Comptroller, \$450. Contingent fund, \$50.—\$9,350 00.

Department of Education.

For salary of Superintendent, \$3000. Salary of chief clerk, \$1800. Wood and lights, \$100. Postage, \$300. Books and Stationery, \$200. School teachers, the expense of this department to be paid from the school fund, \$500,000.—\$505,400 00.

Comptroller's Office.

For salary of Comptroller, \$3000. For salary of chief clerk, \$2000. For Salary of book keeper, \$1800. For Salary of assistant book keeper, \$1200. For Salary of tax clerk, \$1800. For Salary of accountant, \$1600. For Deficiency clerk, \$1600. For Assistant clerks, \$15,000. Telegraphing, \$100. Postage for distribution of assessments, rolls and current correspondence, \$1200. Wood, \$200. For one safe, \$1700. For office furniture, \$50. For contingent expenses, \$50. For books and stationery, \$1000.—\$32,300 00.

Adjutant General's Department.

For salary of Adjutant General, \$3000. For salary of one clerk, \$1200. For wood, stationery, rent and postage, \$500.—\$4700 00.

Blind Asylum.

For salary of Superintendent, \$2000. For salary of matron, \$600. Salary of principal teacher, \$720. For salary of assistant teacher, \$500. For salary of teacher of music, \$300. For support of institution, \$12,000.—\$16,120 00.

Deaf and Dumb Asylum.

For salary of Superintendent, \$2000. Support of institution, \$12,000.—\$14,000 00.

Lunatic Asylum.

For salary of Superintendent, \$2500. Salary of Assistant Superintendent, \$1800. Support of Asylum, \$34,000.—[\$38,300 00.]

Geological Department.

For salary of Geologist, \$3000. For office, and chemicals and supplies, \$500. For wood, \$50. For postage and lights, \$200. For traveling expenses, books and instruments, \$2000.—[\$5750 00.]

Bureau of Immigration.

For salary of Superintendent, \$2000. Office rent, fuel and lights, \$300. That the sum of \$5000 is hereby appropriated, to be expended by the Superintendent of Emigration, for the purpose of preparing, printing and distributing information, with reference to the soil, agricultural products, minerals, manufacturing advantages, price of lands, population and resources of the several counties in this State, together with such other information as may be deemed of interest to emigrants, \$5000.—\$7300 00.

Penitentiary.

For transportation of prisoners to the penitentiary, \$40,000.—\$40,000 00.

Public Buildings and Grounds.

For salary of Superintendent of Public Grounds, \$1200. For watering plants in Capital Grounds, \$300. For repairing enclosures, marking and properly protecting the graves of the distinguished dead, buried in the State Cemetery, \$1000.—\$2500 00.

Interest.

For amount necessary to meet interest on public debt, \$330,000. Interest on pension bonds, under act of 1874, \$150,000.—\$480,000 00.

Old Pensions.

For payment of old pensioners, \$1975. For Dillard Cooper, annual appropriation under act of 1871; provided, said Dillard Cooper shall not be entitled to draw any other sum of money as a pension from the Treasury, \$250. For protection of frontier, \$150,000.—\$152,225 00.

Miscellaneous.

R. A. Upton, late sheriff of Refugio county, \$360 For escheat cases, \$150. For binding 120 volumes of the journals of the English Parliament, in the State Library, \$300. Shelving and stationery for Library, \$75.—\$885 00.

Total, \$1,698,485.

Approved March 15th, 1875.

CHAPTER CII.

An Act requiring the several justices of the Peace, heretofore having and exercising jurisdiction in the territory composing the county of Waller, previous to its organization, or their successors in office, to turn over to the proper Justices of the Peace of Waller county, respectively, all the unfinished business of their courts, originating or belonging to the several precincts of Waller county, including the original papers in all suits pending, with a certified transcript of all orders made therein, and also a certified copy of all judgments on their dockets remaining unsettled.

Section 1. Be it enacted by the Legislature of the State of Texas, That the several justices of the peace, heretofore having and exercising jurisdiction in the territory

composing the county of Waller, previous to its organization, or their successors in office, shall turn over to the justices of the peace of Waller county, having and exercising jurisdiction in said territory, respectively, all the unfinished business of their courts originating in or belonging to the several precincts of Waller county, including the original papers in all suits pending, with a certified transcript of all orders made therein, and also a certified copy of all judgments on their dockets remaining unsettled.

Sec. 2. That it shall be the duty of the justices of the peace of Waller county, upon the receipt of such unfinished business, to proceed with the same as required by law in suits originally commenced in their respective courts; provided, that in all suits where judgment has not been rendered the defendant shall be re-cited.

Sec. 3. That this act take effect from its passage.

Approved March 15th, 1875.

CHAPTER CIII.

An Act to authorize the cities of Texas to maintain Public Schools.

Section 1. Be it enacted by the Legislature of the State of Texas, That the several incorporated cities in the State, be and are hereby authorized to assume control of the public schools within their limits, to build school houses, and provide for the gratuitous education of all children therein, for such time as their constituted authorities may deem expedient.

Sec. 2. Any incorporated city that may undertake to provide for the gratuitous education of all the children of scholastic age, within its limits, shall be omitted from the school districting county, and shall be permitted to district the population within its limits, as by its constituted authorities may be deemed best.

Sec. 3. When any such incorporated city so assumes the control of the public education within its limits, the county board of school directors may, when it is deemed expedient, re-district the territory left under their control, to suit the changed relations of the scholastic population.

Sec. 4. Schools so organized and provided for by such incorporated cities, shall be subject to the general laws of the State as to public education, and be under the super-

vision of the department of education, in like manner as all other public schools in the State.

Sec. 5. When such incorporated cities shall, in good faith, so assume the management and provision of the public schools within their limits, they shall receive such a share of the public school funds, as they may be so entitled to pro-rata as to their scholastic population under the scholastic census.

Sec. 6. Such addition amounts as they may deem proper to raise for the purpose of sustaining such schools, shall be levied upon the taxable property in said city, in accordance with their usual city assessment of taxes for municipal purposes, not to exceed one-fourth of one per cent. in addition to the tax allowed to be levied by the general law.

Sec. 7. Any city accepting the provisions of this act shall notify the county superintendent of the county, and the Superintendent of Public Instruction of its action, by sending them a certified copy of the resolutions of the city council by which such acceptance is made.

Sec. 8. This act shall take effect and be in force from and after its passage.

Approved March 15th, 1875.

CHAPTER CIV.

An Act creating the office of Public Weigher, and regulating the appointment and defining the duties and liabilities thereof.

Section 1. Be it enacted by the Legislature of the State of Texas, That there is hereby created an office to be styled the Office of Public Weigher.

Sec. 2. The Governor is hereby authorized and required to appoint three competent persons as public weighers in the city of Galveston, and one or more, not to exceed three in any one city, competent persons as public weighers in the cities of Houston, Sherman, Dallas, Austin and Waco, and at such other cities as in the judgment of the Governor may be expedient, who shall hold his office two years and until his successor is appointed and qualified, subject to removal by the Governor for misconduct or incompetency in office.

Sec. 3. Every person so appointed, before entering upon the duties of his office, shall take and subscribe an oath faithfully and impartially to administer the duties of his office; and he shall also execute a bond with good and sufficient securities in the sum of ten thousand dollars, payable to the Governor of the State of Texas and his successors in office, conditioned for the faithful performance of his official duties, which said bond shall be certified to be sufficient by the presiding justice of the county wherein the city for which said appointment shall be made is situated; which said bond certified as aforesaid shall be filed and recorded in the office of the clerk of the district court of the county wherein said city shall be situated.

Sec. 4. When the person so appointed as aforesaid shall have qualified as aforesaid, he shall enter upon the duties of his office and shall weigh without unnecessary delay all cotton, wool, sugar and hides required to be weighed, and shall mark upon the same plainly, in figures, the weight thereof, and make a return of such weights in detailed form to the owner or owners thereof, or their agents or factors, after first certifying the correctness thereof. He shall also keep copies of the weights of all articles weighed by him, and shall furnish a certified copy of the same, at any time, to the owner or his agents, or the purchaser thereof on demand.

Sec. 5. The public weighers shall have power to appoint one or more deputies who shall take and subscribe an oath similar to the one herein provided, to be taken by the public weigher, for whose acts the principal shall be responsible.

Sec. 6. He shall keep accurate and well adjusted scales and balances and accurate weights, and shall have the same tested and certified to as provided by law.

Sec. 7. He shall be allowed a fee of ten cents for each bale of cotton weighed; and a fee of ten cents for each bale or sack of wool weighed; and for each hogshead of sugar weighed a fee of fifty cents; for each barrel weighed a fee of ten cents; for each bale of hides ten cents; and for each loose hide two cents; and he shall not be obliged to deliver any such cotton, wool, hides, or sugar, so weighed, until such fee has been paid.

Sec. 8. It shall not be lawful for any person, other than a regularly appointed weigher or his deputies, to weigh any cotton, wool, sugar, or hides, offered for sale or sold

in any of the cities named in this act, or in any other city or town where any public weigher may be appointed by the Governor; and any person so offending shall be liable to indictment, and on conviction thereof, shall be fined five dollars for each and every bale of cotton, bale or sack of wool, and hogshead of sugar, so unlawfully weighed; provided, that nothing in this act shall be so construed as to prevent any person from weighing his, her or their cotton, wool, sugar or hides, in person, without being compelled to call upon a public weigher to weigh the same.

Sec. 9. That an act entitled "An Act for the appointment of public weighers, and prescribing their duties and liabilities," approved February 7, 1860, be and the same is hereby repealed.

Sec. 10. That any public weigher who shall [] to comply with the provisions of this act shall be liable on his bond for all damages; and any public weigher or his deputy, certifying to any false weight of cotton, sugar, wool or hides, shall be deemed guilty of a felony, and on conviction thereof, shall be confined in the State penitentiary not less than one nor more than three years.

Sec. 11. That this act take effect and be in force from and after the first day of June, A. D. 1875.

Approved March 15th, 1875.

CHAPTER CV.

An Act to amend an act entitled "An Act to provide for the employment of convicts for petty offenses."

Section 1. Be it enacted by the Legislature of the State of Texas, That the act entitled "An Act to provide for the employment of convicts for petty offenses," be and the same is hereby so amended as hereafter to read as follows: "Section 1. That whenever any person is hereafter convicted of any misdemeanor or petty offense, and as a punishment therefor, is sentenced to be imprisoned in the county jail of any county, it shall be lawful for the county court of the county to employ such convict—with his consent—to labor upon the public buildings or other public works of the county, or upon the public roads of the county, during the whole term of his imprisonment, or any

part thereof to which he may consent or agree; and said county courts are further authorized to employ, or to let out to hire—with their consent—and for such time as may be agreed, the labor of such convicts, to work at any mechanical or other employment, under such rules and regulations as may be prescribed by said county courts.”

Sec. 2. Said county courts are also authorized to employ or let out to hire, in like manner, with their consent, and for such time as they may agree to, the labor of any or all convicts who may be under sentence of imprisonment in the county jail, for the non-payment of fines imposed by any courts of this State, for the commission of any misdemeanor or petty offense, in which case the convict shall receive a credit of one dollar and fifty cents for every proper days work done by him; and when the whole fine and costs of the sentence are thus paid by him, he shall be discharged from imprisonment, unless he is held for some other legal cause; and all persons arrested and confined in jail on any criminal charge or complaint of a misdemeanor or petty offense, may, with their consent, and for such time as they may agree to, be employed by direction of said county courts, in like manner, from the time of imprisonment until the time of trial; and if, upon trial, such person should be acquitted and discharged, he shall be paid not less than fifty cents nor more than one dollar, in the discretion of said court, for each days work; in no case shall any person be employed, or let out to hire, under the provisions of this act, without his or her consent, or for a longer period than may be agreed to.

Sec. 3. The county courts respectively shall have full power to make all needful provisions for the care and safe keeping of such convicts as may be employed or let out to hire, under the provisions of this act.

Sec. 4. All moneys which may be realized under the provisions of this act, shall be paid into the county treasury and may be appropriated to the use and benefit of the county, in such manner as the county court may direct.

Sec. 5. That all laws and parts of laws contravening the provisions of this act, be and the same are hereby repealed; and that this act take effect and be in force from and after its passage.

Approved March 15th, 1875.

CHAPTER CVI.

An Act to amend "An Act to establish a code of Criminal Procedure for the State of Texas," approved August 26, 1856.

Section 1. Be it enacted by the Legislature of the State of Texas,, That section 356 of "An Act to establish a code of Criminal Procedure for the State of Texas," be so amended as to read as follows: Section 356. When the Grand Jury is completed, one of their body shall be appointed foreman, and the following oath shall be administered to each of said jurors: You solemnly swear (or affirm as the case may be) that you will diligently inquire into and true presentment make of all such matters and things as shall be given you in charge; the State's counsel, your fellows, and your own, you shall keep secret, unless required to disclose the same in the course of a judicial proceeding in which the truth or falsity of evidence given in the grand jury room in any criminal case shall be under investigation. You shall present no person from envy, hatred or malice, neither shall you leave any person unrepresented for love, fear, favor, affection or hope of reward, but you shall present things truly as they come to your knowledge according to the best of your understanding, so help me God.

Approved March 13th, 1875.

CHAPTER CVII.

An Act to provide for the distribution of taxes collected for the building and repairing of school-houses in certain school districts in newly created counties.

Section 1. Be it enacted by the Legislature of the State of Texas, That whereas certain new counties have been organized in this State since the assessment of taxes was made for the purpose of building and repairing school-houses in the several school districts, by virtue of section 23 of An Act to establish and maintain a system of public free schools in the State of Texas, passed April 30, 1873; and whereas, certain school districts, formerly parts of old counties, form now a part of certain new counties; and

whereas, the said taxes have been collected and used by the officers of said old counties; therefore, wherever any such tax has been collected in any county in this State, and any school district for which the same was collected, has, since said collection, become a part of another county, the sheriff or county treasurer of each county in which said collection was made, shall, upon demand made by the Superintendent of Public Schools on the treasurer of the county in which said school district is now situated, immediately pay over to the treasurer of said county all money in his hands belonging to said district; and the same shall be held by said treasurer in a separate fund for the use of the district entitled to the same, subject to the same rules and regulations for disbursement as is provided in the act under which the said taxes were collected.

Sec. 2. And should any sheriff or county treasurer having such funds in his hands, refuse to pay over the same upon demand made in accordance with the foregoing section, the same may be collected by suit, in any court of competent jurisdiction, which suit may be brought by the officer demanding the same, and judgment shall be rendered for the principal sum due, with legal interest thereon from date of demand, and the further sum of twenty per cent. damages upon the sum so recovered, which shall be ascertained and rendered by the court trying said cause.

Sec. 3. The officer or officers to whom the payments provided for in the above section are made, shall give a receipt for the same to the officer paying the same, and the said officer so paying shall be forever discharged from his liability for said fund.

Sec. 4. This act be in force from and after its passage.

Approved March 15th, 1875.

CHAPTER CVIII.

An Act to regulate Public Roads in the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the county courts in this State, shall at their first term after passage of this act, or as soon thereafter as practicable, classify the public roads in their several counties as follows, to-wit: Into first, second, and

third class roads and designate by an order spread upon the minutes or records of the court, what road or roads in their counties shall be first class roads, what ones shall be second class roads, and what shall be third class; provided, that the police court of the respective counties may, if they deem it proper and to the interest of the citizens of the county, direct the width of first class roads to be sixty feet or less; provided, that nothing herein contained shall prevent the owners of farms through which such roads may run, from cultivating the land, save and except twenty feet occupied by such road.

Sec. 2. All first class roads shall be forty feet wide, all second class roads shall be thirty feet wide, and all third class roads twenty feet wide.

Sec. 3. All first class roads shall be kept open from any obstructions of any kind.

Sec. 4. The county courts may grant to any person over whose land a second or third class road may run, the right to erect a gate or gates across such road or roads, said gate or gates to be ten feet wide, and hung so that any person on horseback can open them without alighting from his horse, and so arranged that the gate will shut itself.

Sec. 5. Any person or persons who shall leave any gate or gates open through which they may pass, shall be subject to the person or persons owning, leasing, or cultivating any such land, for all damages that may happen by reason of leaving such gate or gates open, which damages may be recovered before any court of competent jurisdiction as other damages are now collected by law; any such person or persons so offending, shall be subject to indictment or presentment for malicious mischief upon the complaint of the person or persons so damaged, before any justice of the peace or district court in the county in which the act or offense may have been committed, and shall be fined in any sum not to exceed one hundred dollars, with all costs; and upon failing to pay said fine and costs, may be imprisoned in the county jail at the discretion of the court before which the case may be tried, not to exceed fifty days; or he or she may be compelled to labor on some public road for the term of ——— days, necessary to pay said fine and costs, at one dollar per day, until said fine and costs are fully paid.

Sec. 6. The county court in any of the counties of this

State, when any person represents to it, either by himself or his attorney, that the road commonly traveled by him to any church, schoolhouse, mill, or to his timber, or county site, has been or is about to be closed or shut up, to cause the same to be opened as provided in this act, by causing the sheriff or some constable of said county to summons three citizens not connected to either party interested in such road, to go upon the premises and lay out and limit where and how said road or way shall run, and determine whether said road is a second or third class road; and they shall also assess the damages that may be just to the owners of the land over which said roads or roads shall run, and shall make a report of their action in the premises to the next term of the county court; then if any of the owners or agents of the lands over which said road is lain out to run by the assessing board aforesaid, refuse to grant right of way as aforesaid, then upon the payment of the damages assessed by said board, and approved by the county court of the county in which the road is situated, by the interested party or parties, the said court of the proper county shall order the sheriff or some constable of said county to open the same according to law.

Sec. 7. All such roads shall be lain out or located as near as may be to the section or dividing lines of the lands of the different persons over whose lands said roads may run, with a view to the interest of all concerned, and so as to have as good a road or passway for said travel as can be had with due regard to the interest of both the owners of the lands and the traveling public.

Sec. 8. That this act take effect and be in force from and after its passage.

Approved March 15th, 1875.

CHAPTER CIX.

An Act to disqualify certain persons from exercising the functions of offices from which they have been removed.

Section 1. Be it enacted by the Legislature of the State of Texas, That hereafter whenever any county officer has been legally removed from his office, said officer shall not again be eligible to hold and exercise the functions of said

office, for a period of two years from and after such removal.

Sec. 2. That all laws in conflict with this act be and the same are hereby repealed.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved March 15th, 1875.

CHAPTER CX.

An Act to amend an act to adopt and establish a penal code for the State of Texas, approved August 28, 1856.

Section 1. Be it enacted by the Legislature of the State of Texas, That section 290 of an act to adopt and establish a penal code for the State of Texas, approved August 28, 1856, be so amended as to read as follows: Section 290a. All oaths or affirmations legally taken in any stage of a judicial proceeding, civil or criminal, in or out of court, or before a grand jury, are included in the description of this offense.

Approved March 15th, 1875.

CHAPTER CXI.

An Act prescribing the mode of service in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That any person made defendant to any civil suit, may be cited by publication upon the plaintiff, his agent or attorney making affidavit that the defendant is a transient person, that his residence is unknown, or that he is a non-resident of the State of Texas.

Sec. 2. That said citation may be published in any newspaper published in the county where the suit is pending, and if there be no paper published in said county, then it must be published in the nearest paper to the county seat where the suit is pending. Said citation shall be published for four weeks prior to the setting of the court, and no judgment shall be taken in said cause until the second

term after the citation is served. The person publishing such notice shall make an affidavit showing the length of time he published the same, and the return of the officer making such service must show how he executed the same; provided, that service of certified copy of petition, by any person competent to make oath of the fact, upon any absent or non-resident defendant may be made outside of the limits of this State; and the oath of the party making such service shall be sufficient return. The return shall show when and where the said copy was delivered to the defendant.

Approved March 15th, 1875.

CHAPTER CXII.

An Act to authorize the County Court of Waller county to have certain records transcribed.

Section 1. Be it enacted by the Legislature of the State of Texas, That the county court of Waller county be and they are hereby authorized to have transcribed from the records of Austin and Grimes counties, all deeds, conveyances, mortgages and contracts, affecting or in regard to lands lying in that portion of the said county of Waller, formerly belonging to the said counties of Grimes and Austin.

Sec. 2. Copies of transcripts of said deeds, conveyances, mortgages and contracts, when transcribed, under and by authority of this act, shall be admissible in evidence, under the same rules as copies of the original records.

Sec. 3. The county court of said Waller county shall appropriate such sum as may be necessary for transcribing said records.

Sec. 4. That this act take effect and be in force from and after its passage.

Approved March 15th, 1875.

CHAPTER CXIII.

An Act for the relief of Rusk county, and making an appropriation therefor.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of one thousand dollars be

and the same is hereby appropriated, out of any moneys not otherwise appropriated, to reimburse the county of Rusk for moneys wrongfully paid into the Treasury of the State by the authorities of said county.

Sec. 2. That the Comptroller be directed to draw his warrant on the Treasurer of the State for the above amount in favor of the Treasurer of Rusk county, and that this act take effect and be in force from and after its passage.

Approved March 15th, 1875.

CHAPTER CXIV.

An Act to amend the second section of "An Act to give State aid in the removal of rafts and other obstructions from the Guadalupe and San Antonio rivers," passed May 1st, 1874.

Section 1. Be it enacted by the Legislature of the State of Texas, That the second section of the above recited act, be so amended as to hereafter read as follows: Section 2. That said board of commissioners shall within three months from the passage of this act, enter into contract with any responsible person or firm, to remove from the bed of said rivers, below the town of Victoria any and all timbers and rafts, that now obstruct the passage of the waters of said rivers, in any manner that said contractors may deem proper, so that after such removal there shall be no obstacle or impediment to timber or drift wood coming from above, floating freely to the rivers' mouth; and in the event that said commissioners shall deem it best to make cut-offs by canals at any bend or bends in said rivers, they may contract therefor, and the contractors shall be entitled to receive the subsidy in land provided for in section third of said act, for each mile or fraction of a mile of rafts or timber obviated and cut off by said canals; and the right of way of two hundred feet through the lands of any person, is hereby granted, under the same laws and regulations which apply to rights of way granted to railways in this State.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 15th, 1875.

CHAPTER CXV.

An Act to amend sections fourteen (14) and thirty-two (32) of "An Act to establish and maintain a system of public free schools in the State of Texas," passed May 22, 1873, and to amend section twenty-two (22) of "An Act to amend sections nine (9), ten (10), eleven (11), fifteen (15), seventeen (17), twenty-two (22) and thirty-eight (38) of An Act to establish and maintain a system of public free schools in the State of Texas, approved May 2, 1874.

Section 1. Be it enacted by the Legislature of the State of Texas, That section fourteen of the above recited act be amended so as to read as follows: "Section 14. The county board of directors shall divide their respective counties into school districts of convenient size, and number the same; provided, that no school district shall include more than one white and one colored school, except in towns and cities, and said districts shall be so bounded that all the children in said district may be in convenient distance of said schools; and said county board of directors shall order elections in each school district for a board of school trustees, as hereinafter provided.

Sec. 2. That section twenty-two of said recited act be amended so as to read as follows: Section 22. The board of school directors of each county shall require the trustees of each school district, immediately, and within ten days after their election, to take the scholastic census of the district, making separate lists of the white and colored children, and make a full report thereof, under oath, to the county superintendent, and the county superintendent shall forward a copy of said report to the Superintendent of Public Instruction, within five days after receiving the said report. The trustee or trustees taking the scholastic census shall be entitled to five cents for the name of each child reported, to be paid by the county treasurer upon the order or warrant of the county superintendent, out of the public school fund apportioned to the county. Said board of school directors shall also require said trustees to provide the necessary schools and schoolhouses for the scholastic population of the respective districts, separating the white from the colored children, and so arranging the schools and schoolhouses that good order, peace and harmony may be maintained in the schools. Said trustees

shall employ competent teachers for all the schools in their respective districts, and see that the schools are taught and properly conducted for at least four months in the year.

Sec. 3. That section thirty-two of said recited act be amended so as to read as follows: "Section 32. If the public school fund apportioned to any particular district shall not be sufficient to employ competent teachers for the public schools organized in said districts for four months in each year, the county board of directors shall levy and collect an ad valorem tax not to exceed one-fourth of one per cent. upon all the taxable property in said district, as shown by the assessment rolls made out by the justice of the peace or other assessing officer, to supply the deficiency; and in order that this may be done, the justices of the peace in making their regular assessments of taxes, shall assess the property of the inhabitants of each school district separately; and no teacher shall receive more than ten cents per day for each scholar, the payment to be made on the actual daily attendance.

Sec. 4. That teachers of public free schools may receive into their schools students not within the scholastic age, or those who are within the scholastic age but who desire to pursue other studies than such as are prescribed for public free schools, upon such terms as may be agreed upon by the parties interested.

Sec. 5. That this act take effect and be in force from and after its passage.

Approved March 15th, 1875.

CHAPTER CXVI.

An Act to amend the first section of "An Act prescribing the time of holding the district courts in the Thirteenth Judicial District of the State of Texas," and to repeal an act passed by the Fourteenth Legislature, and approved May 1, A. D. 1874.

Section 1. Be it enacted by the Legislature of the State of Texas, That the district courts of the Thirteenth Judicial District shall be holden at the times hereinafter specified, to-wit: In the county of Parker, on the first Mondays in October, February and June, and may continue in session three weeks; in the county of Jack, on

the fourth Mondays in October, February and June, and may continue in session two weeks; in the county of Young, on the second Mondays in November, March and July, and may continue in session one week; in the county of Palo Pinto, on the third Mondays in November, March and July, and may continue in session two weeks; in the county of Hood, on the first Mondays in December, April and August, and continue in session two weeks; in the county of Somerville, on the third Mondays in December, April and August, and may continue in session one week; in the county of Johnson, on the fourth Mondays in December, April and August, and may continue in session until the business is disposed of.

Sec. 2. That for judicial purposes, the counties of Throckmorton and Haskell are hereby attached to the county of Young, and the county of Stephens to the county of Palo Pinto, for the same purpose. That no writ or process, nor bail bond, or recognizance, executed or entered into before the courts, whose terms are changed by this act, shall thereby be invalid, but such persons shall be bound to appear and answer, or be held bound at the terms of the courts, as fixed by this act, the same as if no change had been made in the terms of said courts.

Sec. 3. That an act passed by the Fourteenth Legislature, and approved on the first day of May, A. D. 1874, providing for the holding of Courts in the Thirteenth Judicial District, be and the same is hereby repealed, and that this act take effect sixty days after its passage.

Approved March 15, 1875.

CHAPTER CXVII.

An Act to regulate assessments in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever any tax payer desires to pay back taxes on lands, and to avail himself of the privileges conferred by section 24, of "An Act to regulate the assessment and collection of taxes," approved May 31, 1873, the Comptroller of Public Accounts is hereby authorized to assess the same for taxes, at the valuation to be fixed by the tax payer, his agent or attorney, under oath;

provided, however, that the Comptroller may reject the same, if he shall deem it too low, and may assess the value himself at such amount as he shall deem just and equitable.

Sec. 2. Whenever it comes to the knowledge of the Comptroller of Public Accounts, that there are taxable lands in any of the counties of the State, which have not been rendered for taxation for any year or years, and no person applies to render and pay the taxes thereon, under the provisions of the first section of this act, and other laws in force relating to the same subject matter, the Comptroller shall notify the presiding justice, or assessor and collector, as the case may be, of the county in which such lands are situated, of the fact; and thereupon it shall be the duty of the officer notified to place such lands upon the tax rolls, and to assess the same in accordance with law, which assessment as soon as made, he shall certify under his hand to the Comptroller of Public Accounts, and the settlement of back taxes under said above recited act shall then be made on the basis of such assessment and valuation; provided, it shall be optional with the tax payer to pay the State and county taxes for the years actually due, at the rates levied by the State and respective county or counties for such year or years.

Sec. 3. That a fee of twenty cents shall be paid to the presiding justice, or assessor and collector, as the case may be, for each track assessed, as provided in the foregoing section, in the same manner as commissions for other assessments are paid.

Sec. 4. That this act take effect and be in force from and after its passage; and that this act shall be considered cumulative.

Approved March 15th, 1875.

CHAPTER CXVIII.

An Act authorizing the tax collector of Wise county to give credit upon the assessment of taxes in said county, upon the assessment of 1875, for payments made in 1874.

Whereas, An Act of the Legislature, passed April 30, 1873, exempted several counties upon the frontier, and

among them Wise county, from State and poll tax; and

Whereas, Notwithstanding this law, the sheriff of said county has collected from citizens thereof, one thousand and thirty-nine dollars and sixty cents, and paid the same to the State; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the collector of taxes of Wise county is authorized and directed to give credit upon the assessment for 1875, of the taxes of the people of said county for the payment of the poll and State taxes made to the sheriff of said county on the assessment made for 1874.

Sec. 2. The receipt of the sheriff shall be evidence of the payment of the taxes referred to in the first section of this act, and shall be surrendered to the collector by the party claiming a credit under the provisions of this act, and shall be to the collector vouchers for so much money collected, and when the receipt has been lost, the same may be proven by the oath of the party and such other corroborative evidence as shall be satisfactory to the collector that payment has been made; and the collector shall reserve this evidence for his vouchers.

Sec. 3. That this act take effect from and after its passage.

Approved March 15th, 1875.

CHAPTER CXIX.

An Act requiring sheriffs to collect taxes levied to supply deficiencies in support of Public Free Schools, and to provide mode of settlement and collection.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sheriffs of the several counties in this State, shall collect all school taxes levied, to supply deficiencies in the several school districts of their respective counties, upon being furnished proper rolls to guide them in such collection by the county superintendent; and in case of failure or refusal on the part of such officer or his deputy, to proceed forthwith to collect such deficiency school taxes as may have been or may be levied, he shall be removed from office by the judge of the district court, either in session or in chambers.

Sec. 2. All deficiency school taxes collected under the

requirements of this act, shall be paid over by the sheriff to the county treasurer on the last days of each month; and sheriffs are hereby authorized to take all steps for enforcing payment of such deficiency tax, that are prescribed by law for enforcing payment of State or county taxes; provided, that no collection of taxes shall be made under the provisions of this act, unless the assessment of the property has been assessed by the justices of the peace of the respective counties in this State, as required by law, in each school district of such county separately.

Sec. 3. That this act shall take effect and be in force from and after its passage; and all laws or parts of laws in conflict herewith, be and the same are hereby repealed.

Approved March 15th, 1875.

CHAPTER CXX.

An Act to provide for the election of municipal officers in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever a vacancy occurs by resignation or otherwise in the municipal offices of any incorporated town or city in this State, so that such vacancies can not be filled under the charter of such town or city, or under the laws of this State, now in force; then in that event it shall be the duty of the presiding justice in the county in which such town or city is situated, upon the petition of not less than ten of the principal tax payers, citizens of said town or city, to at once order an election to fill such vacancies, giving notice of not less than ten days in the usual manner provided for such elections.

Sec. 2. That said elections shall in all things be carried on as required by law in similar elections, and the officers so elected, shall in like manner be qualified and installed into office.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved March 15th, 1875.

CHAPTER CXXI.

An Act to amend the tenth section of "An Act concerning wills," approved the 16th of March, A. D. 1840.

Section 1. Be it enacted by the Legislature of the State of Texas, That section ten of the afore recited act shall hereafter read as follows: Section 10. If any person shall subscribe his name as a witness to a will wherein any bequest is given to him, if the will can not be otherwise proven, the bequest shall be void, and such witness shall be allowed and compelled to appear and give testimony on the residue of the will in like manner as if no bequest had been made; but if such witness would be entitled to any share of the estate of the testator or testatrix in case the will were not established, so much of his said share shall be saved to him, as shall not exceed the value of the legacy bequeathed; provided, however, that such wills may be proven by the evidence of said subscribing witnesses, corroborated by the testimony of one or more creditable persons, not subscribing witnesses or legatees under said will, who can prove to the satisfaction of the court that the testimony of said subscribing witnesses, necessary to sustain such will, is substantially true, in which event the bequest to such subscribing witness shall not be void.

Sec. 2. That all laws in conflict with this act are hereby repealed.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved March 15th, 1875.

CHAPTER CXXII.

An Act supplemental to "An Act creating the office of Assistant Attorney General, defining his duties and fixing his salary," passed at the present session of the Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That section two of the act, to which this is a supplement, shall read as follows: The Assistant Attorney General shall be appointed by the Governor, by and with the advice and consent of the Senate; he shall

hold his office for four years, he shall assist the Attorney General in representing the interests of the State in all suits and pleas in the Supreme Court of the State, and in the district courts whenever he may be so required by the Governor or the Attorney General, and shall, in addition thereto, perform such other duties as may be required by law or by the Governor or Attorney General; provided, that the term of office of Assistant Attorney General shall be the same and expire with that of the Attorney General.

Sec. 2. This act shall take effect from its passage.

Approved March 15th, 1875.

CHAPTER CXXIII.

An Act to amend section one of an act amendatory of an act to amend an act entitled "An Act to adopt and establish a Penal Code for the State of Texas," approved August 26th, 1856. Approved February 6th, 1875.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Penal Code of the State of Texas be and the same is hereby amended by inserting therein the following additional article, to-wit: Article 235a. Within the term "misapplication of public money," are included the following acts: first, the use of any public money in the hands of any officer of the government for any purpose whatsoever, save that of transmitting or transporting the same to the seat of government, and its payment into the treasury; second, the exchange by any officer of one character of public funds in his hands for those of another character; the purchase of bank checks in exchange for transmissal to the treasury is not included in this class; third, the deposit by any officer of the government of public moneys in his hands at any other place than the treasury of the State, when the treasury is accessible and open for business, or permitting the same to remain on deposit as [at] such forbidden place after the treasury is so open; fourth, the purchase of State warrants, or other evidence of State indebtedness, by any officer of the

government with public moneys in his hands; fifth, the special enumeration of cases of misapplication above set forth, shall not be understood to exclude any case which by fair construction of the language, comes within the meaning of the preceding article; provided, nothing in this act shall be so construed as to prohibit the selling of gold or silver for United States currency by the Comptroller of Public Accounts or the State Treasurer, whenever the same may become necessary in the proper execution of law, nor the payment by sheriffs of school warrants drawn by the Superintendent of Public Instruction, on the Comptroller, for the amount of school fund due their respective counties.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 15th, 1875.

CHAPTER CXXIV.

An Act to authorize the destruction of certain bonds of the State of Texas in the Treasurer's office.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Comptroller, Treasurer and Secretary of State, be required to destroy by fire, the following described bonds of the State of Texas which have been issued and redeemed, or executed and never issued, now in the office of the Treasurer, that is to say, the registered ten per cent. funded bonds, amounting to four hundred and ten thousand and two hundred dollars, a part of which are signed by the officers of the late administration, and a part are blank, issued under "An Act," approved May 30, 1873; also, all bonds of the above class for which the Treasurer has exchanged coupon bonds provided for by "Act," approved May 2, 1874; also, all six per cent. bonds remaining in the Treasury, amounting to two hundred thousand dollars, a part of which are signed by the officers of the late administration, and a part are blank, issued under "An Act," approved May 2, 1871; and the said officers shall make and sign triplicate lists or

memorandums of the bonds thus destroyed, and shall file one in each of the offices of the Comptroller, Treasurer and Secretary of State.

Sec. 2. This act to take effect from its passage.

Approved March 15th, 1875.

CHAPTER CXXV.

An Act to regulate office fees to be charged by the Comptroller of Public Accounts.

Section 1. Be it enacted by the Legislature of the State of Texas, That a fee of fifty cents shall be charged for each and every sealed certificate that may be hereafter issued by the Comptroller of Public Accounts.

Sec. 2. That for examinations in which the State or any county has no interest a fee shall be charged at the rate of fifty cents per hour spent in such examination.

Sec. 3. That the fees mentioned in section one and two of this act, and all other fees provided for by law, including the fees provided for by an act entitled "An Act regulating Fire and Marine Insurance Companies," approved February 17, 1875, shall be paid into the treasury as general revenue.

Sec. 4. That this act be in force from and after its passage.

Approved March 15th, 1875.

CHAPTER CXXVI.

An Act to ascertain the deficiencies of the several Departments of the State, for the fiscal year ending the thirty-first day of August, A. D. 1875, and amounts due individuals, and to appropriate money to pay the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That the following sums, or so much thereof as may be necessary, is hereby appropriated, out of any

money in the Treasury not otherwise appropriated, to pay the following deficiencies in the several departments of the State Government for the fiscal year ending the thirty-first day of August, A. D. 1875, and allowances to individuals named herein, towit:

Comptroller's.

Tin file boxes, \$600. For chairs, \$25. For pay of clerks for making abstract of deeds and revising tax roll under tax law of 1870, the sum of \$2000. For window shades, \$50. Swante Palm, for postage, State Department, July 1, 1872, page 197, act 1873, \$7 80. G. N. Beaumont, for services as clerk in office of Superintendent of Public Instruction, November 1, 1874, to January 12, 1875, \$319 92. Repairs on Comptroller's and Treasurer's Office, \$1700.—\$4702 92.

State Department.

For express charges on Supreme Court reports, laws, etc., \$200. For repairs of shelving for library, \$250. For necessary repairs of State Capitol, \$200. For contingent expenses, \$50. R. H. Small, for printing election proclamation in Trinity Advocate, September, 1874, \$40. E. H. Wheeler, for advertisement, Nueces Valley, approved by Printing Board, September 15, 1874, \$183 85. E. H. Wheeler, for advertisement, Nueces Valley, approved by Printing Board, September 15, 1874, \$77 50. John H. Barbour, for making transcript of deeds, etc., under tax law of 1870, in Matagorda county, approved by W. W. Burkhardt, judge, \$135. Robert Lockhart, for attendance as witness in case of contest, Stewart vs. Tracy, Thirteenth Legislature, \$50 25. James J. Serilley, for inspecting 174 8-100 miles of the work improving the Trinity river, (see Special Laws of 1873, page 742, act passed June 2, 1873) \$278 40. Dennis Corwin, for running connecting lines in counties of Haskell, Knox, Baylor, Wilbarger and Hardeman, 367 16-100 miles, \$1,101 48. For salary of Assistant Attorney General, from March 15, 1875, to September 1, 1875, \$1375. For costs to be paid clerks of the District and Criminal Courts, sheriffs and district attorneys, for the year ending August 31, 1875, and previous years, \$60,000. For fees of Justice of the

Peace, District Attorneys, and other peace officers, accruing prior to August 31, 1875, \$15,000. To pay Sheeks and Sneed, and Terrell and Walker, \$2000. For fees of Peeler and Fisher, for legal services in the Supreme Court, under retainer by the Governor, in 29 cases known as the Rio Grande cases, \$2900. For interest on Pension Bonds to July 1, 1875, \$80,000. For procuring Pension Bonds, \$500. Repairing cisterns in Capitol Grounds, \$200. For salary of clerk in the Treasurer's office, for eight months, provided for by law of the present session of the Legislature, \$1000. For furniture in Treasurer's Department, \$150. For contingent Treasury Department, \$150. Quarantine, for quarantine regulations upon the coast of Texas, for the year ending August 31, 1875, to be disbursed by the Governor, \$10,000. F. Barnard, for publishing election proclamation of Governor E. J. Davis, for amendments to the Constitution, in the year A. D. 1873, \$50. For paying clerks fees and sheriffs fees in escheat cases, \$150.—\$176,041 48.

Executive Department.

For rewards for arrest of fugitives from justice, \$5000. For J. M. Phillips' company for arresting and transporting criminals in Bandera and San Saba counties, \$450. For legal services rendered by F. E. McManus, of Cameron county, \$100. To G. A. Knight, for transporting prisoner Huffman from Dallas to San Antonio, \$200.—\$5750 00.

Supreme Court.

For lights and postage, \$200. For books and stationery, \$200. For clerk's fees in felony cases, \$1000. For furniture, \$50. For G. H. Gray, as Librarian from May 21 to October 21, 1869, \$83 33 1-3. For freight on books, \$30. For publishing notices of assignment of the docket, \$75. For publishing decisions of Supreme Court, 39th volume, \$5000. For repairs of the Supreme Court building, \$350. To pay Thomas Smith as Librarian of the Supreme Court at Tyler, for the year commencing November 7, 1866 to November 7, 1867, \$200.—\$7188 33 1-3.

General Land Office.

For pay of two clerks and one draftsman for last five months of this fiscal year, ending August 31, 1875, to be employed under "An Act to provide for the re-compilation of an abstract of the titled and patented lands in Texas, \$1,791 66. For salary of eight additional draftsmen for the same time, \$4000. For salary of night watchman for the same time, \$208 30. For repairs to General Land Office and construction of a vault for Spanish archives, \$5000.—\$10,999 96.

Penitentiary.

For conveying prisoners to the penitentiary, for years 1870, 1871 and 1872, \$12,500. For year ending August 31, 1874, \$10,000. For year ending August 31, 1875, \$50,000. For traveling expenses of Superintendent of Penitentiary, \$250.—\$72,750 00.

School Department.

For salary Superintendent to August 31, 1875, \$500. For salary chief clerk to August 31, 1875, \$600. For pay county superintendents, \$16,960. For pay school directors, \$17,600. For pay census takers, \$15,000. For pay employee for department, \$160. For postage and contingent expenses, \$600. All to be paid out of the special school fund. For P. W. Huddleston, deputy tax collector, Lavaca county, amount of school tax for 1873, overpaid by him, to be paid out of the apportionment of the school fund to Lavaca county, \$200. For pay of second assistant teacher in Blind Asylum, \$300. Salaries of district attorneys, for year ending August 31, 1875, \$7200. Jacob T. Chandler, in full for claims for services at penitentiary, and for all claims assigned to him, \$1440 98.—\$60,560 98.

Immigration Department.

John Cardwell, in full for dues on publications authorized under act of 1873, General Laws, Thirteenth Legislature, page 160, \$3251 66.—\$3251 66.

Adjutant General's Department.

For salary, \$600.—\$600 00.

Blind Asylum.

For support of Blind Asylum, \$650.—\$650 00.

Total, \$342,495 13 1-3.

Sec. 2. The Attorney General, Comptroller, Secretary of State and Treasurer of the State, are hereby constituted a board to pass upon, revise and approve the various accounts that constitute the deficiencies and claims mentioned in the first section of this act. Any three members of said board are authorized to act, and they shall not allow any item of account or accounts, which was not authorized by some law of this State, existing at the time said account accrued or was contracted. The certificate of approval of said board shall be sufficient authority for the Comptroller to draw his warrant on the Treasurer for the amount due the interested party. That the several sums of money in this act appropriated for the repairs of the Treasury and the Comptroller's building, the Supreme Court Building, the repair of the General Land Office, and the construction of a vault for Spanish archives, in the General Land Office shall be expended under the supervision and direction of the Governor.

Sec. 3. This act take effect from its passage.

Approved March 15th, 1875.

CHAPTER CXXVII.

An Act to extend the time for the construction of works of internal improvement.

Section 1. Be it enacted by the Legislature of the State of Texas, That the limitation of time required by their respective charters and laws of the State for the completion of any works of internal improvement or particular sections or parts thereof, be and the same is hereby extended and enlarged for the term of twelve months in

addition to that given in their charters or laws for the completion of the same; provided, that this act shall not revive any right to subsidy of lands or money or bonds now lapsed or forfeited by reason of non-compliance by any company with the terms of its charter or laws by reason of which said company is entitled to any subsidy of money, land or bonds; and provided, further, that any right of any company not now lapsed or forfeited is by this act extended; provided, that the extension herein granted shall not apply to any railroad or other work of internal improvement, which shall not construct as much as five miles of their road within the time now prescribed by their charters, or the general law granting an extension of one years' time, passed at the first session of the Fourteenth Legislature; provided, further, that this act shall not apply to any railway company in whose favor any special act may be passed extending the time of construction at the present session of the Legislature; provided, that within twelve months after the completion of the southern line of the "Texas Pacific Railroad" to Fort Worth, in Tarrant county, that said company shall build, equip and put in running order their said road to the town of Weatherford, in Parker county, and shall build, equip and put in running order forty miles every twelve months thereafter, or eighty miles each two years until the same reaches the Rio Grande river; provided, further, that the "Texas Pacific Railroad Company" shall have but six months additional time as now prescribed by their charter, or the general law granting extensions of time to works of internal improvement, approved April 30, A. D. 1874, on that part of their line between Eagle Ford and Fort Worth, and between Brookston and Texarkana; and provided, further, that said company shall construct and put in running order as much as twenty miles of road between Brookston and Texarkana, by the first day of November, A. D. 1875; provided, that if the Houston and Great Northern Railroad Company shall accept the benefit of this act, that said company is hereby required to build their road to the town of Clarksville, in Red River county, as contemplated by their charter; provided, that the company shall build forty miles of the Trans-Continental Branch by the first day of March, 1877, and a like amount of forty miles each year, until they make the junction at Fort Worth, in Tarrant county; provided, that the provisions of this act shall not

apply to the International Railroad Company, so as to give said company any longer time for the construction of its road than allowed by the act, passed at this session, adjusting the difference between said company and the State of Texas.

Sec. 2. That this act shall take effect and be in force from and after its passage.

Approved March 15th, 1875.

JOINT RESOLUTIONS.

[No. 1.]

Joint Resolution authorizing the Governor to offer a reward of four thousand dollars for the apprehension of John Wesley Hardin, and making an appropriation therefor.

Be it resolved by the Senate and House of Representatives of the State of Texas, That the Governor be and he is hereby authorized to offer a reward of four thousand dollars for the apprehension and delivery of the body of the notorious murderer, John Wesley Hardin, delivered within the jail house door of Travis county, to be paid out of any moneys in the treasury not otherwise appropriated.

Approved January 20th, 1875.

[No. 2.]

Joint Resolution providing for lighting the Capitol and the Governor's Mansion with gas.

Be it resolved by the Legislature of the State of Texas, That the Superintendent of Public Buildings and Grounds be and he is hereby instructed to contract with the lowest bidder for introducing the necessary pipe and putting up appropriate fixtures in the Capitol building and grounds and the Executive mansion, and that he cause the said Capitol building and Executive mansion to be lighted with gas, at as early a day as practicable; provided, said contractor shall not be allowed to charge the State any more for such pipe and fixtures, than is charged for such work for individuals.

Approved January 22nd, 1875.

[No. 3.]

Joint Resolution ratifying the contract, made by the Printing Board, with John D. Elliott, to do the current printing ordered by the Senate, and also by the House of Representatives of the Fourteenth Legislature.

Section 1. Resolved by the Legislature of the State of Texas, the Senate and House of Representatives concurring, That the contract heretofore made by the Printing Board with John D. Elliott, dated on the 26th day of December, A. D. 1874, and filed in the office of the Secretary of State on the 26th day of December, A. D. 1874, be and the same is hereby approved and ratified, and ordered to be carried into effect.

Sec. 2. That this resolution take effect from and after its passage.

Approved February 2d, 1875.

[No. 4.]

Joint Resolution authorizing the Speaker of the House of Representatives and the President of the Senate to employ attorneys to defend a certain suit pending in the district court of Travis county, and make an appropriation to defray the expenses thereof.

Resolved by the House of Representatives, the Senate concurring, That the Speaker of the House of Representatives and President of the Senate be and are hereby authorized to employ attorneys to defend a suit in behalf of officers of the House and of the Senate pending in the district court of Travis county, entitled No. 3997, *De Gress vs. Hubbard*, et al; and to defend a suit against James E. Dillard, a member of this Senate, pending in said court; and that the sum of fifteen hundred dollars, or so much thereof as is necessary, be appropriated out of the contingent fund of the second session of the Fourteenth Legislature, to pay attorney fees and other necessary expenses of said suit; and that a warrant, signed by the Speaker and the President of the Senate, shall be sufficient authority for the payment of said sum of money; and that this resolution take effect from and after its passage.

Approved February 5th, 1875.

[No. 5.]

Joint Resolution, instructing and requesting our Congressional Delegation to urge upon Congress the early and favorable consideration of the claims upon the people's gratitude of those who rendered service in the army and navy of the United States in the late war with Mexico.

Whereas, The gallant deeds of those who served in the army and navy of the United States in the late war with Mexico, achieved advantages of vast importance to the American people, and reflected the highest honor and credit upon the nation; and

Whereas, A due manifestation of a nation's gratitude toward those who gallantly support its standard in the hour of trial and danger, is a capital, invigorating motive to patriotism, and a strong incentive to like deeds of valor; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That our Senators be instructed, and our Representatives in Congress be requested, to urge upon Congress the early and favorable consideration of the claims upon the people's gratitude of those who rendered service in the army and navy of the United States in the late war with Mexico.

Sec. 2. Be it further resolved, That the Secretary of State be required to furnish a copy of this joint resolution to each of our Senators and Representatives in Congress, as soon as practicable after its passage.

Approved February 10th, 1875.

[No. 6.]

Joint Resolution requesting our Senators and Representatives in Congress to aid in securing the passage of a law for the relief of the heirs of L. R. Wortham, deceased.

Whereas, The store-house and stock of goods of L. R. Wortham, deceased, late of Freestone county, State of Texas, were, on the 12th day of August, A. D. 1868, destroyed by fire, causing a loss to the said L. R. Wortham of about twenty-five thousand dollars; and

Whereas, It is established by competent evidence that said fire was caused by some soldiers of the United States army; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That our Senators and Representatives in Congress be and they are hereby requested to aid in securing the passage of a law by the Congress of the United States to compensate the heirs of the said L. R. Wortham, deceased, for said loss.

Sec. 2. Be it further resolved, That the Secretary of State be required to furnish a copy of these resolutions to each of our Senators and Representatives in Congress as soon as practicable.

Approved February 17th, 1875.

[No. 7.]

Joint Resolution for the relief of Rufus A. Upton, late Sheriff of Refugio county.

Whereas, Rufus A. Upton, late sheriff of Refugio county, did on the 21st day of June, A. D. 1871, at the instance, and in compliance to an order of Hon. A. Bledsoe, late Comptroller of Public Accounts, mailed and sent to the said A. Bledsoe, then Comptroller of Public Accounts, in a registered letter from the post office, at the town of Refugio, in the county of Refugio, State of Texas, the sum of three hundred and sixty dollars, the same being total amount of frontier tax collected by said Rufus A. Upton, sheriff as aforesaid, in the county of Refugio, for the year A. D. 1870; and

Whereas, It now appears that said Rufus A. Upton has never received credit for said amount on the books of the Comptroller of Public Accounts; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the Comptroller be and is hereby authorized to draw his warrant in favor of Rufus A. Upton, late sheriff of Refugio county, for the sum of three hundred and sixty dollars.

Sec. 2. That this joint resolution take effect and be in force from and after its passage.

[Note.—The foregoing bill was presented to the Governor of Texas for his approval on the eleventh day of

February, A. D. 1875, and was neither signed by him nor returned to the House in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature.—A. W. DeBerry, Secretary of State.]

[No. 8.]

Joint Resolution concerning the vacant lands in Fisher and Miller's Colony.

Whereas, The territory known as Fisher and Miller's Colony, was made a reservation for the benefit of German Immigration Company, and the lands in said colony were to be surveyed in alternate sections, one section for the immigrant and the other for the company; and whereas, the company failed to carry out the provisions of their contract; and whereas, said lands set apart for the company were reserved to the State, and commissioners appointed to issue certificates to those immigrants, who came to this State for the purpose of joining said colony, and said certificates were locatable on any of the sections set part for the immigrant; and whereas, certificates were afterwards issued to the company, for every one hundred immigrants, and said certificates were made locatable on the sections originally set apart for the company; and whereas, there were many sections not located, either by the immigrant or the company, and much vacant land never was sectionized; and whereas, the Twelfth Legislature by an act, declared, that any holder of a genuine land certificate could locate the same upon any of the public domain, and the Commissioner of the General Land Office construed the law, so as to allow the location of colony certificates upon any of the vacant land of Texas, and to allow the holder of a genuine land certificate to locate the same upon the lands originally set apart for the colony, and to allow pre-emptions upon the same; and whereas, many thousands of acres have been filed upon and patents have already been issued, and many thousand of acres have been pre-empted and filed upon, and field notes returned to the Land Office, and patents have not been issued thereon; therefore, to quiet the titles to said lands, and allow settlement and location:

Section 1. Be it resolved by the Legislature of the State of Texas, That said lands be open for location, as

other vacant lands in this State, in accordance with laws concerning location, and that patents which have already been issued on the same as aforesaid, either to pre-emptors or to owners of certificates, be declared valid; and the Commissioner of the General Land Office is hereby authorized to issue patents to any of said vacant lands, either to pre-emptors or owners of certificates, which have been filed upon and field notes are now on file in General Land Office; provided, this act shall not so be construed as to effect any rights which may have arisen by virtue of pre-existing laws.

Sec. 2. This act to take effect from and after its passage.

Approved February 27th, 1875.

[No. 9.]

Joint Resolution condemning the interference with and destruction of the State Government of Louisiana by the present Federal Administration.

Whereas, it is the right and duty of the States, on appropriate occasions, to give expression to their sentiments on all questions seriously affecting the integrity and the honor of the Union and the General Government; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That we recognize in the late interference of the Federal Administration in the domestic affairs of Louisiana, and its destruction of the State Government, legally established by the people of that commonwealth, a flagrant violation of the Constitution of the United States and the rights of all the States by the present Federal Administration.

Sec. 2. That Texas entertains profound appreciation of the spirited indignation expressed by the advocates of freedom and constitutional government throughout the nation, irrespective of political parties, at the outrage lately perpetrated in Louisiana by the present Federal Administration upon the dignity of the Union, and the honor and rights of the States, and joins in the national protest against the prostitution of the United States Army to the illegal purpose of making war upon a State of this Union.

Sec. 3. That to our sister State, in this her hour of oppression and wrongful affliction, we extend the deepest sympathy, and assure them of our firm belief that the

American people will administer a just rebuke to the present Administration for this assumption of power, and avert the danger which threatens local self-government in the States.

Sec. 4. That a copy of these resolutions be sent to the President of the Senate of the United States, and to the Speaker of the House of Representatives, and to our Senators and Representatives in Congress, and the Governors of the several States of the Union.

Approved March 9th, 1875.

No. 10.

Joint Resolution making an appropriation to pay the contingent expenses of the second session of the Fourteenth Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of ten thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated, out of any money in the treasury not otherwise appropriated, to pay the contingent expenses of the second session of the Fourteenth Legislature.

Sec. 2. That this joint resolution shall take effect from and after its passage.

Approved March 11th, 1875.

[No. 11.]

Joint Resolution granting leave of absence to the Honorable John C. Easton, Judge of the Eighth Judicial District, from the tenth day of July until the first Monday in September, 1875.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Honorable John C. Easton, Judge of the Eighth Judicial District, be and he is hereby granted a leave of absence from the State from the tenth day of July until the first Monday in September, 1875.

Sec. 2. That this joint resolution take effect and be in force from and after its passage.

Approved March 13th, 1875.

[No. 12.]

Joint Resolution amending sections one, two, six and seven, of Article V; sections forty-four, forty-five and forty-six of Article XII; sections one, two, three, four, five, six, seven, eight and nine of Article IX, and section fifty-one, General Provisions of the Constitution.

Section 1. Be it resolved by the Legislature of the State of Texas, That sections one, two, six and seven, of Article V; sections forty-four, forty-five and forty-six, of Article XII; sections one, two, three, four, five, six, seven, eight and nine, of Article IX; and section fifty-one, General Provisions of the Constitution, be so amended as to read as follows:

Sec. 2. Section one, of Article V, of the Constitution, shall be amended to hereafter read as follows: Section 1. The judicial power of this State shall be vested in a Supreme Court, in District Courts, and in such other courts and magistrates as may be created by law.

Sec. 3. That section two, of Article V, shall hereafter read as follows: There shall be elected at the first general election after the adoption of this amendment, and every seven years thereafter, five Judges of the Supreme Court, who shall hold their office for the period of seven years, whose salary shall be four thousand five hundred dollars. The Judge receiving the highest number of votes shall be the Chief Justice and commissioned as such.

Sec. 4. That section six, of Article V, shall hereafter read as follows: The State, upon the ratification of this amendment shall be divided into convenient Judicial Districts, for each of which one judge shall be elected by the qualified electors thereof, for the term of four years, and who shall, at the time of his election, be a qualified voter of his district, and who shall reside during his term of office in the district, and shall hold a court in each county thereof, at least twice a year, at such time and place as may be prescribed by law; and the Legislature shall have power to alter the Judicial Districts.

Sec. 5. That section seven, of Article V, shall hereafter read as follows: The district court shall have original jurisdiction of all criminal causes; of all causes in behalf of the State; to recover penalties, forfeitures and escheats; and of all suits and causes in which the State may be inter-

ested; of all cases of divorce; of all suits to recover damages for slander or defamation of character; of all suits for the trial of title to land; of all suits for the enforcement of liens; and of all suits, complaints and pleas whatever, without regard to any distinction between law and equity, where the matter in controversy shall be valued at or amount to one hundred dollars, exclusive of interest; and the said courts and the judges thereof shall have power to issue the writ of habeas corpus and all other writs necessary to enforce their own jurisdiction, and to give them a general superintendence and control over inferior tribunals. The district court shall also have appellate jurisdiction in cases originating in inferior courts, with such exceptions and under such regulations as the Legislature may prescribe.

Sec. 6. That section forty-four, of Article XII, shall hereafter read as follows: The Legislature may, by law, regulate the rate of interest.

Sec. 7. That section forty-five, of Article XII, shall hereafter read as follows: The Legislature shall prescribe the qualifications necessary for grand and petit jurors.

Sec. 8. That section forty-six, of Article XII, shall hereafter read as follows: The Legislature shall provide, by law, for the establishment, improvement and maintenance of the public roads and bridges in the different counties of the State.

Sec. 9. That section fifty-one—General Provisions—shall hereafter read as follows: The Legislature shall not, in times of peace, create a debt or liability on the part of the State exceeding five hundred thousand dollars.

Sec. 10. That sections one, two, three, four, five, six, seven, eight and nine of Article IX, shall hereafter read as follows: Section 1. The Legislature shall, by law, establish and maintain a system of common schools, which shall be free to the entire scholastic population of the State, between such ages as may be by law prescribed; nor shall any person be excluded from the benefit of said schools on account of race, color or previous condition of servitude; but the Legislature shall have the power to establish separate schools for the whites and blacks. All lands, funds, or property heretofore granted by any constitution or law of the Republic or State, or that may hereafter be granted or set apart for the purposes of common schools, shall constitute the common school fund, and it shall forever remain intact, and no law shall be made

granting or appropriating it to any other purpose whatever. The lands belonging to the common school fund may be sold on such terms as may be prescribed by law. The principal of the common school fund shall be invested, from time to time, in bonds or other interest bearing securities, and the annual interest arising from this fund, together with such taxes as may be by law levied for this purpose, shall each year be appropriated for the support and maintenance of common schools in this State. The lands heretofore given to the respective counties of this State for the purposes of education, or that may hereafter be granted to such counties as have not received any lands, are declared to be absolutely vested in the said counties and the people thereof, in full and absolute title, and shall only be sold by the several county courts of the respective counties. The principal fund arising from the sale of such lands, shall be placed at interest by the county courts or other county authorities; and the interest arising from such fund expended by said courts in their respective counties for educational purposes, in such manner as may be prescribed by law.

Passed March 12th, 1875.

[No. 13.]

Joint Resolution prescribing the time and mode of settlement of the accounts of W. J. Long, former sheriff of Bell county, for the fiscal year embracing a part of the years 1873 and 1874.

Whereas, Charles T. Massie broke and entered the safe of W. J. Long, late sheriff of Bell county, and abstracted from it about forty-one hundred dollars, only a part of which money was recovered by the said Long; and

Whereas, The said Long, at an expense of five hundred and thirteen dollars, captured the said Massie, and secured his conviction for said offense before the district court of Bell county; therefore:

Section 1. Be it resolved by the Legislature of the State of Texas, That the said W. J. Long, be and is hereby allowed three years, as hereinafter provided, in which to settle and adjust his accounts as sheriff and ex-officio tax collector of Bell county.

Sec. 2. That said Long shall, on or before the tenth day of April, 1875, make a settlement of his account as tax collector aforesaid, with the Comptroller of the State and the county court of Bell county; and upon ascertaining the amount due from the said Long, to the State of Texas, the Comptroller shall give him a credit upon the amount ascertained to be due to the State of Texas, the sum of five hundred and thirteen dollars, the amount expended in securing the capture and conviction of the said Massie; and the said W. J. Long, shall have three years from and after the date of said settlement, to pay the balance due the State, as follows: one-third in twelve months from the date of settlement as aforesaid, one-third twenty-four months after said date, and the remainder in thirty-six months after said date.

Sec. 3. That said Long shall have three years after the date of his settlement with the county court of Bell county, to pay the amount which may be found due said county, as follows: one-third of the amount in twelve months after the date of said settlement, one-third twenty-four months after the date of such settlement, and the balance in thirty-six months after said date.

Sec. 4. That interest on the amounts ascertained to be due the State and the county of Bell, shall be computed at the rate of eight per cent. per annum, and shall be paid on the said sums as they severally fall due under this act.

Sec. 5. That this act shall take effect from and after sixty days after its passage; provided, the sureties on the bond of the said W. J. Long, as sheriff of Bell county, will file their acceptance and consent to the provisions of this act, in the office of the Comptroller of the State within sixty days after the passage of this act; provided, also, that the securities on the bond of said Long, as sheriff, shall file with the county court of Bell their acceptance of the provisions of this act, before said sheriff shall be entitled to the benefits of this act, so far as the amount he may be due the county of Bell is concerned.

Approved March 13th, 1875.

[No. 14.]

Joint Resolution instructing our Senators and requesting our Representatives in Congress to use their earnest endeavors to procure the passage of a law or laws, and an appropriation by the Congress of the United States to give better protection to our Mexican border; to reimburse the State of Texas for expenditures incurred in protecting the line of the Rio Grande river; to indemnify citizens and residents of Texas for losses sustained by armed bandits from the Republic of Mexico driving off their cattle and horses; and to give security for the future to life and property along the Rio Grande border.

Whereas, It appears that the lives and property of the citizens of Texas are exposed to great danger, and there has been great loss of the same, by reason of the forays of armed bands from the Republic of Mexico.

Whereas, It is the duty and obligation of the United States to protect said citizens, and to guard well our Rio Grande border from foreign invasions.

Whereas, The State of Texas has incurred great expense in keeping State troops on the line of said river, in attempting to afford some protection to the life and property of the citizen against Mexican raiders; which raiders it is the duty of the Mexican Government to restrain, and when they invade our soil, the duty of the United States to drive back.

Whereas, Great loss of life and property has resulted from the failure of the United States to protect said border; and,

Whereas, It is but just and right that our citizens should be indemnified for such losses, and properly protected in the future: therefore.

Section 1. Be it resolved by the Legislature of the State of Texas, That our Senators are instructed and our Representatives in Congress are requested to use their most earnest endeavors to secure such laws and appropriations, by the Congress of the United States, as may be necessary to secure better protection on the line of the Rio Grande river, the reimbursing of the State of Texas for expenditures incurred in protecting said line, and use their utmost exertions to induce the United States Government to take such steps and action as will indemnify our citizens for losses sustained by armed bandits and raiders from the

Republic of Mexico, and give ample security for the future along the national boundary of the United States, within the limits of the State of Texas.

Sec. 2. That His Excellency, the Governor, cause to be transmitted to each of our Senators and Representatives in Congress a copy of this joint resolution.

Approved March 13th, 1875.

[No. 15.]

Joint Resolution legalizing and validating the official acts of C. L. Thurmond, a notary public of Victoria county.

Whereas, On the twenty-first day of March, A. D. 1874, His Excellency, the Governor, did appoint, with the advice and consent of the Senate, C. L. Thurmond to the office of notary public for the county of Victoria; and whereas, it now appears in the opinion of the Attorney General, that the said C. L. Thurmond was disqualified from holding the said office of notary public for the reason of his, the said C. L. Thurmond's being the sheriff of the said county of Victoria; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That all the official acts of the said C. L. Thurmond, as notary public as aforesaid, done in pursuance of said appointment, be and the same are hereby legalized and made valid.

Sec. 2. That this joint resolution take effect and be in force from and after its passage.

Approved March 13th, 1875.

[No. 16.]

Joint Resolution providing for a Convention to frame a Constitution for the State of Texas.

Section 1. Be it resolved by the Legislature of the State of Texas, That a Convention to frame a New Constitution for the State of Texas, shall assemble at the city of Austin on the first Monday in September, 1875, for the purpose of framing a New Constitution.

Sec. 2. The convention herein provided for shall be composed of ninety delegates of the people.

Sec. 3. Such delegates shall be chosen and elected by the qualified electors of the State of Texas as follows: The qualified electors of each Senatorial District shall choose and elect three delegates.

Sec. 4. An election shall be held on the first Monday in August, 1875, for the election of such delegates; such election shall be governed and controlled by the laws now in force in regard to general elections; and at said election each voter, in voting for delegates, shall vote: "for convention" or "against convention," and the vote of each county, for and against convention, shall be certified to the Secretary of State by the presiding Justice of such county; and if upon the count of the vote of the people of the State, it be found that a majority have voted for a convention, it shall be the duty of the Governor to issue his proclamation convening the delegates elected to said convention in accordance with the provisions of this joint resolution; provided, that if it be found that a majority of the voters at said election have voted "against a convention," then said convention shall not be convened.

Sec. 5. The Governor shall issue his proclamation upon the passage of these resolutions, directing the several officers of this State, empowered by law to conduct, manage and supervise elections under the laws of Texas, and, as now provided by these resolutions, to hold said elections and make return of the result of the same.

Sec. 6. That the sum of one hundred thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated, out of any money in the State treasury not otherwise appropriated, to pay the mileage and per diem of delegates to, and officers of said convention, and the contingent expenses of said body, which may be drawn or paid out in the manner to be provided for by said convention.

Approved March 13th, 1875.

[No. 17.]

Joint Resolution to define the mode of submitting amendments to the Constitution to the vote of the people.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Governor be and is hereby required to submit the amendments to the Constitution proposed by the present Legislature to be voted upon separately at the next general election; provided, these amendments shall not be voted upon in case a Constitutional Convention is called by a vote of the people.

Sec. 2. That this resolution take effect and be in force from and after its passage.

Approved March 15th, 1875.

[No. 18.]

Joint Resolution granting leave of absence from the State to the Honorable F. P. Wood, Judge of the Thirty-fifth Judicial District.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Honorable F. P. Wood, Judge of the Thirty-fifth Judicial District of the State, be and is hereby granted leave of absence from the State for the period of two months during the present year, at such time as will not conflict with any term of the court in said district.

Sec. 2. That this resolution take effect and be in force from and after its passage.

Approved March 15th, 1875.

[No. 19.]

Joint Resolution permitting the Veterans of the Mexican War to use the Capitol halls and rooms on the eighth of May, 1875.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Veterans of the Mexican War be granted permission to use the Capitol building, embracing

the hall of the House of Representatives, Senate Chamber and ante-rooms, for a reunion or celebration on the eighth of May, 1875.

Approved March 15th, 1875.

DEPARTMENT OF STATE, }
Austin, Texas, March 23rd, 1875. }

I, A. W. DeBerry, Secretary of State of the State of Texas, do hereby certify that I have compared the foregoing laws and joint resolutions of the Fourteenth Legislature with the originals now on file in the Department of State, and that they are true copies of such originals. I further certify that the second session of the Fourteenth Legislature of the State of Texas commenced at the city of Austin on Tuesday, the twelfth day of January, A. D. eighteen hundred and seventy-five, and adjourned on the fifteenth day of March, A. D. eighteen hundred and seventy-five.

In testimony whereof, I have hereunto signed my name, and have caused the seal of the Department of State [SEAL.] to be affixed, at the city of Austin, this the day and date above written.

A. W. DEBERRY,
Secretary of State.

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SPECIAL LAWS

OF

THE STATE OF TEXAS

PASSED AT THE

SECOND SESSION OF THE FOURTEENTH
LEGISLATURE

BEGUN AND HELD

AT THE CITY OF AUSTIN

JANUARY 12, 1875

[BY AUTHORITY]

HOUSTON
1875

SPECIAL LAWS OF TEXAS.

CHAPTER I.

An Act to validate the sale of town lots in Decatur, the county seat of Wise county.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sales of lots in the town of Decatur, the county seat of Wise county, heretofore made by the county court of said county, or by its authority, or by any commissioner of said court, appointed or authorized by said court for the purpose of selling said lots, and where sales were made privately, instead of at auction, as required by law, be and the same are hereby validated, and shall be as good, effectual and binding upon the county of Wise, as if they had been made at public auction.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved January 18th, 1875.

CHAPTER II.

An Act to legalize the order of the county court of Galveston county, made January 4th, 1875, and to authorize the issuance of county bonds therein provided for.

Section 1. Be it enacted by the Legislature of the State of Texas, That the order of the county court of Galveston county, made January 4th, 1875, for purchase and lease from Ballinger and Jack, be, and the same is legal-

ized; and the said county court is authorized to issue the bonds of said county and make the payments therein provided for; and the county court shall levy an annual tax to pay the interest, and create a sinking fund to provide for the payment of said bonds at maturity.

Sec. 2. That this act shall take effect and be in force from its passage.

Approved January 19th, 1875.

CHAPTER III.

An Act to incorporate the "Columbus Bridge Company."

Section 1. Be it enacted by the Legislature of the State of Texas, That Geo. Witting, R. L. Foard, R. P. Tendick, D. F. Frazell, R. V. Cook, J. H. Simpson, Henry Ilse, C. O. Weller and James A. Tolliver, and such other persons as they may associate with them, be and they are hereby incorporated into a joint stock company under the name and title of the "Columbus Bridge Company," and under such name may sue and be sued, and have succession for ninety-nine years.

Sec. 2. Said company shall have the right to construct a bridge of iron or wood across the Colorado river in Colorado county, at or near the town of Columbus, at any point on said river above the mouth of Cummin's creek and below the plantation of R. K. Gay, on the banks of said river, they deem most suitable.

Sec. 3. Said company shall construct said bridge in a good and substantial manner, within two years from the passage of this act, and shall keep the same in good repair for the term of ninety-nine years from the completion thereof, and shall be ready at all times, night and day, to pass all passengers, carriages, wagons, teams and stock that may wish to cross on said bridge; and shall be responsible as common carriers under the law, for any loss of property in transit over said bridge, and the said bridge shall be subject to inspection at least twice per year by a committee appointed by the county court of Colorado county, and if said committee declare the said bridge unsafe, or out of repair, the said bridge company shall put the same in complete repair within six months, and a fail-

ure to put the same in thorough repair within that time shall work a forfeiture of this charter; provided, that while said bridge is out of repair, said company may keep a ferry boat to cross persons and property until the said bridge is put in order.

Sec. 4. The said company shall have the right to establish said bridge at any point (as in section second) and have the right of way over any land on either side of the Colorado river where the said company conclude to place the said bridge (as in section second) which may interpose or lie between the line of the corporate limits of Columbus, and the northern terminus of said bridge, and from said terminus to the county roads as now located between the town of Columbus, and the town of La Grange in Fayette county, and Brenham in Washington county, and may enter upon and take possession of said land; provided, the same shall not exceed the width of sixty feet, by paying the owner or owners thereof whatever price may be agreed upon; and should the said owner or owners of said land and the company not be able to agree as to the price, then the said company may petition the district judge of the judicial district in which said bridge is located, giving a description of the land which they require, with the names of the owner or owners thereof, and the said district judge shall appoint a jury of six freeholders of the county of Colorado, not in any manner interested, who shall, on oath, make a report of the value of the land so required, and upon payment thereof by the company to the owner or owners, or his or their agents, a good title shall be granted by said judge to said company to the lands thus condemned and paid for, a copy of which order made by said judge shall be recorded in the office of the district clerk of the county aforesaid; provided further, that said company may, by their agents and employees, enter upon said lands without first complying with the provisions of this section, for the purpose of making any surveys that they may deem necessary before locating said bridge and the roads and approaches thereto; and provided further, that in case either party is dissatisfied with the award of the jury, they shall have the right to appeal to the district court of the county at any time within twenty days after said award, but such appeal shall not prevent the company from taking possession and using such lands as in said award described; provided, they deposit with the district clerk of the county the

amount of said award, to await the decision of said court upon said appeal.

Sec. 5. This corporation shall have a common seal, and shall have power to make by-laws and regulations for the government thereof, but said by-laws and regulations shall be approved by a majority of the stock.

Sec. 6. The capital stock of this company shall not be less than ten thousand dollars, nor more than fifty thousand dollars, divided into shares of twenty-five dollars each.

Sec. 7. The affairs of this company shall be managed by a board of not less than three nor more than seven directors, who shall select one of their number for President; each of said board, before being eligible, shall own at least four shares of said stock, and the chief office of said company is hereby located in the city of Columbus, Colorado county.

Sec. 8. That when said bridge shall be completed, said company are authorized to demand and receive from each and every person crossing said bridge, or crossing their property over the same, a toll not to exceed the following rates, to-wit: For every footman, five cents; for every man and horse, ten cents; for every one-horse vehicle, twenty-five cents; for every two-horse vehicle, fifty cents; for every ox wagon and two yoke of oxen, thirty cents; for every ox wagon and four to six yoke of oxen, fifty cents; for every two-horse wagon, twenty-five cents; for every four to six-horse wagon, fifty cents; for every loose horse, five cents; for sheep, goats, hogs and cattle, per head, three cents.

Sec. 9. That if any person shall wilfully fail or refuse to pay toll after crossing said bridge, he, she or they shall be liable to forfeit and pay to the said company the sum of five dollars, in addition to the amount due by them to said company for such crossing, and all costs of suit, to be recovered before the nearest justice of the peace of the county of Colorado, or before the justice of the precinct in which such person may reside.

Sec. 10. This act shall be in force from and after its passage.

Approved January 20th, 1875.

CHAPTER IV.

An Act to amend an act entitled "An Act to prohibit the sale of intoxicating or spirituous liquors within two miles of certain places." Approved April 30th, 1874.

Section 1. Be it enacted by the Legislature of the State of Texas, That the first section of an act entitled "An Act to prohibit the sale of intoxicating or spirituous liquors within two miles of certain places," approved April 30th, 1874, be so amended as to read as follows: That it shall be unlawful for any person or persons to sell or dispose of any intoxicating or spirituous liquors, by sale or otherwise, within two miles of the following places, to wit; the Masonic Institute at Melrose, in Nacogdoches county; Baylor University, in Independence, Washington county; New Hope Church and school-house, in Johnson county; Pleasant Grove Church, Lamar county; Mt. Zabor Church, Lamar county; Maysfield Academy, Milam county; Hepziah Church and school-house in Coryelle county; Iredell School in Bosque county; Whitehouse Church and Academy in Smith county; Peoria, in Hill county; Lost Prairie, in Limestone county; Mount Pleasant Camp Ground and Ladonia Male and Female Seminary, Fannin county; Douglassville College, in Cass county; Weston school-house, in the town of Weston, Collin county; Lancaster Masonic Institute at Lancaster, Dallas county; Powell Dale, Bosque county; Merriltown, Travis county; Dresden school-house, Navarro county; Hooker's school-house, Rains county; Bristol, Ellis county; Forest Grove Church, Lamar county; Garden Valley, Smith county; Liberty Church, in Milam county; Woodbury, Hill county; Evans school-house, Williamson county; Turner's Point Academy, Kaufman county; Fitzgerald school-house, Anderson county; Howard and Sunshine, in Bell county; Blossom Prairie Depot, Lamar county; Aurora in Wise county; Helfnie's Chappel in Hunt county; Mantua, in Collin county; Macedonia Church, in Hopkins county; Lewisville, in Denton county; Springhill, Navarro county; Hallville, Harrison county; Bosqueville, McLennan county; Bethel Church and school-house in Lavaca, in the neighborhood of Post Oak Grove Post Office; Union Seminary and Corinth Seminary in Navarro county; Towash in Hill county; Springtown in Parker county, and Stockdale, in Wilson county.

Sec. 2. That all laws in conflict herewith be and the same are hereby repealed.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved January 21st, 1875.

CHAPTER V.

An Act prescribing the place for the sale of property under legal process and deeds of trust in Marion county.

Section 1. Be it enacted by the Legislature of the State of Texas, That all sales of property which shall hereafter be made by virtue of an order of court, execution or deed of trust, which by law are now required to be made at the door of the courthouse of Marion county, shall be made at the northeast corner of Austin and Walnut streets, in the city of Jefferson; and the said place shall be regarded as the door of the courthouse of Marion county for purposes of sale, and all advertisements of such sales shall designate said place as the door of the courthouse of said county, and all sales made there shall be as legal as if actually made at the door of the courthouse of said county.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved January 25th, 1875.

CHAPTER VI.

An Act to incorporate the Waxahachie Tap Railroad, and to facilitate the building thereof.

Section 1. Be it enacted by the Legislature of the State of Texas, That J. W. Ferris, John G. Williams, C. D. Pickett, S. A. Clift, B. F. Hawkins, H. H. Dunn, D. G. Ransom, W. L. Carrick, G. L. Adkison, M. T. Patrick, H. W. Graber, J. F. Aldridge, J. B. Meridith, John S. Siddins, A. Trippet, H. McLain, N. G. Wise, their successors, assigns, and those whom they may associate with

them, their successors or assigns, be and they are hereby constituted a body politic and corporate under the name of "The Waxahachie Tap Railroad Company," under which name they and the stockholders in the same, their successors and assigns, shall have succession for sixty years, with the right to sue and be sued, plead and be impleaded, contract and be contracted with, to have and to hold, purchase and convey, both real and personal property, to use a common seal, and to perform such acts and things as may become necessary and proper to be done for the best interest of said company; and to establish such by-laws and regulations as the board of directors may deem proper, not inconsistent with the constitution and laws of this State, or of the United States.

Sec. 2. That the persons above named, or a majority of them, shall act as commissioners to receive subscriptions to the capital stock of said company, and shall select from their number seven, to act as the first board of directors, and who shall continue in office until their successors are duly elected and qualified, in accordance with the by-laws of said company, to be by them, or a majority of them, adopted. The capital stock of said company shall be two hundred thousand dollars, to be divided into shares of one hundred dollars each, and each share shall be entitled to one vote in all elections for directors, and in all stockholders' meetings, either personally or by proxy; and said shares shall be deemed personal property, and shall be transferred in writing recorded by the Secretary in the books of the company, or in such other or further manner as the by-laws of said company may provide.

Sec. 3. That said company shall have the right, and the authority is hereby given them, to construct, equip, operate and own a line of railroad, together with a telegraph line, from such point upon the Houston and Texas Central Railroad, in the county of Ellis, as may hereafter be agreed upon, to the town of Waxahachie, in said county of Ellis.

Sec. 4. That said company shall have the right to make any and all preliminary surveys; to enter upon and take possession of lands to the extent of two hundred feet in width, for the purpose of road-bed and construction, and such additional quantity of land for the purpose of depots, sidings, turnouts, machine shops, and other buildings, as may be necessary, by any agreement had with the owner

of the property of private owners; and if no agreement can be made, or the owner or owners be absent, or unknown, or minors, then the property shall be acquired in accordance with the general railroad law of the State.

Sec. 5. The said company shall commence and have completed said road within five years from and after the passage of this act.

Sec. 6. That said company shall be entitled to all and any rights, powers, privileges, aid, benefits and immunities conferred by the general laws now existing, or that may hereafter be passed by the Legislature of the State of Texas, in relation to railroad corporations.

Sec. 7. That the State of Texas hereby donates and grants to said company sixteen sections of land, of six hundred and forty acres each, for each mile of railroad said company may complete and put in good running order on said line, as hereinafter provided. Whenever said company shall complete said railroad, they may inform the Governor of the fact, and it shall be his duty to appoint some skillful engineer to examine said road, whose duty it shall be to examine the same, and report thereon under oath to the Commissioner of the General Land Office; and if it shall appear from such report that said railroad has been completed and put in good running order, in accordance with this charter and the laws of the State, the said Commissioner shall issue to said company sixteen land certificates, of six hundred and forty acres each, for each and every mile of said road so completed by said company.

Sec. 8. That the land certificates issued to said company under the provisions of this act shall be located and surveyed in alternate sections upon the unappropriated public domain of the State; that is to say, for each certificate so issued, shall cause to be surveyed two sections of land of six hundred and forty acres each adjoining, and shall return to the General Land Office the field notes and maps; whereupon the Commissioner of the General Land Office shall number said sections, and shall issue to said company, or there assignees, patents to the odd sections, the even sections being reserved to the State for the school fund; provided, the State shall in no event be responsible or liable for any deficiency in the public domain; and the certificates issued to said company under the provisions of

this act not located because the public domain has been exhausted shall constitute no claim against the State.

Sec. 9. That said railroad company shall alienate the lands acquired under the provisions of this act as follows: one-fourth in eight years, one-fourth in twelve years, one-fourth in sixteen years, and the remaining fourth in twenty years from the date of the issuance of said certificates, and a failure to comply with or a violation of the provisions of this section shall work a forfeiture of all the benefits of this act, and on failure to alienate said lands as herein directed, they shall be proceeded against as the laws in force may direct.

Sec. 10. That said railroad company shall be subject to the laws of this State now or hereafter to be in force, and the State of Texas reserves the right at any and all times to regulate the freight and charges upon said road, and to regulate at any and all times the conduct of said company as a common carrier.

Sec. 11. That this act shall take effect and be in force from and after its passage.

Approved January 25th, 1875.

CHAPTER VII.

An Act to authorize the town of Waxahachie to aid in the construction of the Waxahachie Tap Railroad.

Section 1. Be it enacted by the Legislature of the State of Texas, That the town of Waxahachie in the county of Ellis, is hereby authorized to aid in the construction of the Waxahachie Tap Railway, chartered at the present session of the Legislature, as herein provided.

Sec. 2. That whenever fifty or more freeholders of said town shall petition the mayor and aldermen thereof for an election to take the opinion of the electors of said town on a proposition to aid in the construction of said road, either by taking stock, making a loan or donation, it shall be the duty of the said mayor to call the board of aldermen together within ten days after the presentation of said petition, whose duty it shall be to order an election, to be held

within thirty days from the presentation of said petition, to take the opinion of the electors of said town upon said proposition.

Sec. 3. The order of the board shall be entered on the minutes, and shall state the time when, and the place where said election shall be held, and shall appoint three managers to conduct the election, and shall name a time when they shall make a return thereof to the board. The order shall also state, in clear and concise language, whether the proposition be to take stock, to make a loan, or to make a donation, and the amount of same to be given. The said order shall be published in any newspaper published in said town for at least two weeks prior to said election.

Sec. 4. If any of the managers fail to attend on the day of election, or if any of them fail or refuse to act, those who do attend shall fill any vacancies caused by such failure or refusal, and they shall have authority to appoint two clerks to assist at said election.

Sec. 5. The vote on the proposition shall be by a ballot. "For the proposition," or "Against the proposition." Every legal voter residing within the corporate limits of said town shall be allowed to vote upon the proposition; and a record shall be kept of all persons who vote. The managers shall count the vote and make a statement of the result, to which there shall be attached an affidavit of the managers and clerks, that the election has been conducted according to law, and one of the managers shall, within three days after the election, make a return to the county court of the result of the election, with the ballot and the record of the persons who voted.

Sec. 6. Special meeting of the mayor and board of aldermen shall be held on the first Monday after the return day thereof, when the result of said election shall be ascertained and recorded, and if two-thirds of the qualified voters of said town shall have voted in favor of the proposition, then it shall be the duty of the board to adopt such regulations and make such orders as will give practical effect to the proposition so voted for, and for that object the board shall have power to issue the bonds of said town, not to exceed seventy-five thousand dollars, to bear interest not to exceed eight per cent. per annum, and to levy a tax on all real and personal property situated in the town, not to exceed two per cent., on the assessed value of such property in any one year.

Sec. 7. All bonds issued under this act, shall be signed by the mayor and attested by the secretary, with the seal of said town; but no such bonds shall be issued until the board shall have levied an annual tax upon all real and personal property situated within the corporate limits of said town, which shall be sufficient to pay the annual interest, and no less than two per cent. annually of the principal of said bonds, besides the expenses of assessing and collecting the same; which levy shall continue in force until the whole amount of the principal and interest of said bonds shall have been fully paid; provided, that no bonds shall be issued, or donation made under the provisions of this act, except for such portion of the work in aid of which it is proposed to issue bonds or make a donation, as shall have been completed at the time when the bonds are issued or donations made.

Sec. 8. It shall be the duty of the mayor and aldermen to cause all bonds issued by it, under this act, to be presented for registration in the office of the Comptroller of the State, and it shall be the duty of the Comptroller to register all such bonds so presented, and to endorse thereon, in the following form: "The within bond is registered in the office of the Comptroller of the State of Texas," and affix his official signature thereto.

Sec. 9. All taxes levied under this act shall be applied solely to the object for which they are levied under the direction of the State's Comptroller, as follows: First, to the payment of the expenses of assessing and collecting the same. Second, to the payment of the annual interest on such bonds, and no less than two per cent. of the principal, and if there be any excess on hand, after making the above payment for the current year, it shall be used in the purchase and cancellation of said bonds.

Sec. 10. All taxes assessed and collected under this act shall be assessed and collected by the same officers, whose duty it is, or may be, to assess and collect the State taxes, and they shall receive for their services one-fourth of the rates of commission allowed by law for assessing and collecting the State tax; said tax shall be assessed and collected in the same manner as the State tax, and the same remedies shall be used to enforce its collection that are provided by law to enforce the collection of the State tax.

Sec. 11. The officer, whose duty it is to collect the taxes levied under this act, shall give a bond, with two or

more sufficient sureties, to be approved by the State Comptroller, in a sum double the estimated annual amount of said tax, which bond shall be payable to the State, and shall be conditioned for the faithful collection and payment of said taxes into the treasury.

Sec. 12. It shall be the duty of the State Treasurer to receive all money collected under this act and to keep separate account thereof and to pay out the same on warrant, drawn by the Comptroller, who with the Treasurer, are charged with carrying into effect the purpose and object of this act.

Sec. 13. That the mayor and board of aldermen may from time to time require from the State Comptroller a statement showing its accounts with the State, the number and costs of bonds purchased and cancelled which shall in all be returned to the board after being defaced by writing across the face of each bond the name of the person from whom it was purchased, the date of cancellation, and the cost or amount paid for the same and the number of coupons thereon.

Sec. 14. The collector of taxes levied under this act shall pay over to the State Treasurer at the beginning of each month all money he may have collected during the next preceding month, deducting his legal commissions on the amount, and he shall at each regular meeting of the board of aldermen, make a report of his collections and payment to the State Treasurer since the preceding term.

Sec. 15. If it shall be ascertained at any time that the tax which has been levied for the payment of said bonds is insufficient to pay the annual interest, and two per cent. annually of the principal of such bonds, besides the expenses of assessing and collecting such tax, it shall be the duty of the Comptroller to see that such additional tax is levied and collected as will be sufficient to make such payments, which levy shall be continued in force until the whole amount of the principal and interest of said bonds shall have been fully paid.

Sec. 16. That this act take effect and be in force from and after its passage.

Approved January 28th, 1875.

CHAPTER VIII.

An Act validating the official acts of James W. Bennett as sheriff of Lavaca county, and providing for the execution of his bond as sheriff of said county.

Section 1. Be it enacted by the Legislature of the State of Texas, That the official acts of James W. Bennett, done in accordance with law as sheriff of Lavaca county, from the second of December, 1873, be and the same are hereby declared valid and of full force and effect, and that the failure of said James W. Bennett to execute the bond as sheriff of Lavaca county, as required by law, shall in no manner effect the legality of his acts as sheriff as aforesaid.

Sec. 2. That the bond heretofore filed by said James W. Bennett, as collector of taxes of Lavaca county, shall remain of full force and effect, and that all the official acts of said James W. Bennett, as collector of taxes of Lavaca county, are hereby declared valid and legal, and shall in no manner be effected by the failure of said Bennett to execute the bond required of him by law as the sheriff of Lavaca county.

Sec. 3. That the said James W. Bennett is hereby required, within twenty days of the passage of this act, to execute the bond required of him by law as sheriff of Lavaca county, and to submit said bond to the county court of Lavaca county for approval; and when approved by said county court, the said James W. Bennett shall be entitled to have, exercise and enjoy all the rights, duties, powers and privileges of sheriff of said county of Lavaca.

Sec. 4. That the county court of Lavaca county is hereby authorized and required, at any regular or call term thereof, to receive the bond of the said James W. Bennett, executed in accordance with the provisions of this act, and to make all such orders thereon as may be necessary to carry out the intention of this act.

Sec. 5. That this act take effect from and after its passage.

Approved January 28th, 1875.

CHAPTER IX.

An Act to amend an act entitled "An Act to incorporate the Beaumont, Corsicana and Fort Worth Railroad Company."

Section 1. Be it enacted by the Legislature of the State of Texas, That the second section of an act entitled "An act to incorporate the Beaumont, Corsicana and Fort Worth Railroad Company," passed May 29th, 1873, be and the same is hereby amended so as to read as follows: Section 2. "That the said company be and is hereby invested with the right of making, running and maintaining a single track railway and telegraph line from or near Beaumont in Jefferson county, or at such point on the Texas and New Orleans Railroad, or Eastern Texas Railroad, within the county of Jefferson, as may be deemed most expedient or convenient, and thence in a northwesterly direction, by the most eligible route, to the town of Hardin in Hardin county; thence to a point on the Livingston and Woodville road five miles east of the town of Livingston in Polk county, and there to establish a passenger and freight depot; thence to the town of Crockett in Houston county; thence to the towns of Butler and Fairfield in Freestone county; thence to the town of Corsicana in Navarro county; thence to the town of Waxahachie in Ellis county; and thence to the town of Fort Worth in Tarrant county; with the privilege of forming such junctions, crossings or connections with the Texas and Pacific Railroad at Fort Worth as may be deemed eligible and convenient; provided, that said company shall establish a passenger and freight depot within one-half mile of the business portion of each of said towns; provided, said towns respectively shall donate to said company sufficient lands for right of way, switches, side-tracks and depot buildings, not to exceed in each case fifteen acres; and the said company shall have a right to form junctions, crossings or running connections with any railroad on their line between Beaumont, Corsicana and Fort Worth, and at said towns especially, with full power to unite with any other company upon such terms as may be agreed upon; and the right to cross and bridge all rivers and water courses along the line, subject to laws of the State in regard to the navigation thereof. That said company shall commence the construction of their said road either at or near the town of Beaumont in Jefferson

county, or at the town of Oakwood in Leon county, or at the point on the International Railroad where the line of said railroad crosses the said International Railroad, as may be deemed most expedient and convenient; and may construct said road in either direction in the line of the same, from either of said points, as may be deemed most expedient and convenient; and shall complete and put in good substantial running order fifty miles of said road by the first of January, A. D. 1877, and shall thereafter annually construct and put in substantial running order, twenty-five miles of said road, and upon failing to comply with the provisions of this section, said company shall forfeit all rights to the lands herein donated, except upon completed road."

Sec. 2. That this act take effect and be in force from and after its passage.

Approved January 28th, 1875.

CHAPTER X.

An Act requiring the Records of the county of Montgomery to be returned to the town of Montgomery, and the District and County Courts to be holden there, during the pendency of the controversy about the county site of said county.

Whereas, Litigation is now going on to determine whether the town of Montgomery, or of Willis, is the county site of Montgomery county; and

Whereas, The records of said county have been moved from the town of Montgomery, heretofore the county site of said county, to Willis; and

Whereas, It is proper to remove all doubts about the validity of judicial proceedings, had in said county during the pendency of the litigation or controversy about the county site thereof; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the sheriff of Montgomery county is authorized and required, and it is made his duty, to immediately move or caused to be moved, all the records of said county from Willis to the town of Montgomery, and to deliver, or to cause them to be delivered to the proper and legal custody of the officers entitled to them.

Sec. 2. That the terms of the district and county courts of said county shall be held at, and all officers [offices] required to be kept at, and all sales required to be made at county sites, shall be made at the town of Montgomery, until it is legally determined that some other place is the county site of said county.

Sec. 3. That this act take effect from and after its passage.

Approved January 29th, 1875.

CHAPTER XI.

An Act to incorporate the Corsicana and Palestine Railroad Company, and aid in constructing the same by granting lands thereto.

Section 1. Be it enacted by the Legislature of the State of Texas, That James Garitty, S. J. T. Johnson, James Ingram, J. T. Barton, A. F. Robbins, W. S. Robinson, T. P. Sparks and W. C. Waters, of Navarro county, Texas, and James W. Ozment, James Langston, H. B. Wilder, N. W. Hunter, James H. Gee, R. M. Jackson and W. L. Darden, of Anderson county, Texas, be and are hereby appointed commissioners to open books and receive subscriptions to a capital stock of a corporation to be styled, "The Corsicana and Palestine Railroad Company." A majority of said commissioners shall constitute a quorum to do business, and shall meet at such place as may be designated, within three months after the approval of this act, or as soon after as a majority thereof may agree upon, and they may appoint one or more of their members, or such other agents as they may select, to open books at such places as they may direct, to receive subscriptions for the stock of said company; and said commissioners shall hold meetings from time to time, as their business may require, until directors shall be elected as herein-after provided for. In receiving subscriptions to the capital stock, they shall require five per centum thereof, to be paid at the time of subscribing, and any stock upon which the said five per centum is not paid shall be void, and the subscriber shall not be entitled to vote at any meeting of stockholders.

Sec. 2. The subscribers to said capital stock, whenever they shall have selected directors, are hereby created and

established a body corporate and politic, under the name and style of "The Corsicana and Palestine Railroad Company," with power to do and perform all things necessary and proper to the maintenance of its rights under this act, and not inconsistent with the Constitution of the State of Texas; to have, hold and own real estate, necessary for the purpose of said road only; sue and be sued; plead and be impleaded; and to have a common seal.

Sec. 3. The capital stock of said company shall not exceed two millions of dollars, to be divided into shares of one hundred dollars each, each share to entitle the owner thereof to one vote, in person or by proxy. A majority of votes cast shall govern in all cases not otherwise provided by law, and said stock shall be deemed personal estate, transferable only on the books of the company by person or by proxy.

Sec. 4. The direction and control of the affairs of the said company shall be vested in a board of not less than five nor more than nine directors, as the by-laws may provide, and they shall be chosen by the stockholders at their annual meeting, the first of which shall be holden within one year after the passage of this act, at the city of Corsicana, Navarro county, Texas. Said directors shall select one of their own body to be president of said company; shall fill vacancies in their board, appoint a secretary and a treasurer, and such other officers as they may deem necessary, and require bond, and make all rules for holding meetings and for their government. A majority of the directors shall constitute a quorum to do business, and shall have the power of a full board. All conveyances or contracts in writing, signed by the president and countersigned by the secretary, and other officers duly authorized by the board of directors under the seal of the company, when the same is in execution of an order of the board, shall be binding and valid.

Sec. 5. That so soon as fifty thousand dollars of the capital stock of the said company is subscribed, they shall cause the first election of directors to be held, first giving notice of the time and place of such election, by publication in two or more newspapers in the counties through which the road shall run; and when said directors shall be organized, the said commissioners shall pay into the treasury all moneys received upon subscription, and shall deliver to the president all books and other property belonging to the company.

Sec. 6. The said Corsicana and Palestine Railroad Company shall be required to construct and put in running order, and first class operation, ten miles of its said road within two years after the granting of this charter, and ten miles each year thereafter, until completed.

Sec. 7. That said company, when it shall be organized, shall be and it is hereby invested with the rights of locating, constructing, owning, operating and maintaining a railroad and telegraph line from the city of Corsicana, Texas, and running thence, by the most practicable route, to the city of Palestine, Anderson county, Texas, with the privilege of connecting with any other road or roads, at their united, intermediate or objective points.

Sec. 8. That the said Corsicana and Palestine Railroad Company shall be entitled to receive (16) sixteen sections of land for every mile of road completed; and the Commissioner of the General Land Office is hereby directed to issue to said company certificates for said lands on the completion of the first ten miles of said road for the amount of land as above provided for, said ten miles, and the like amount on the completion of each subsequent ten miles; which said lands shall be located in alternate sections, and alienated as required by the general railroad law of the State; but if the public domain shall be exhausted before the location of said certificates, they shall never constitute a claim against the State.

Sec. 9. That the said Corsicana and Palestine Railroad Company, shall be governed by the general railroad law in its charges for freight and passage; in its securing and locating the right of way, they shall be entitled to take, as provided, lands not exceeding two hundred feet wide, by compensating the owner thereof.

Sec. 10. This company shall be subject to all of the general laws now in force, with regard to running over the road of one company by another, and may form a junction and connect with another road in such manner as may best and most certainly secure the construction of their railroad.

Sec. 11. That said company shall have power to borrow money and issue its bonds, with or without mortgage; provided, that the same be done in conformity to the laws of the State of Texas, and the by-laws of the company.

Sec. 12. This charter shall remain in force for the period of one hundred years from the time of its completion.

Sec. 13. The failure of the company to comply with the requirements of this charter, shall operate a forfeiture of all that part of the road not then completed.

Sec. 14. That this act take effect and be in force from and after its passage.

Approved January 29th, 1875.

CHAPTER XII.

An Act to incorporate the Galveston, Brazos and Colorado Narrow Gauge Railway Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That C. W. Hurley, J. Z. H. Scott, J. D. Kilpatrick, A. M. Hobby, H. M. Truehart, Joel Bryan, Edward Rugely, W. S. F. Alexander, John Bolton, J. H. Shepherd, W. G. Miller, Geo. Hancock, C. L. Beissner, jr., Sam. A. Edgerly, A. Underwood, John Adriance, M. A. Bryan, their associates, successors and assigns, be and are hereby constituted and created a body politic and corporate, under the name and style of "The Galveston, Brazos and Colorado Narrow Gauge Railway Company," and as such shall have succession for sixty years, and a common seal; shall have power to sue and be sued, plead and be impleaded, receive grants, gifts and donations; buy, hold, sell and convey property, real, personal and mixed; make by-laws, rules and regulations for their general government, and generally to do all things and acts necessary to its interest, not unlawful.

Sec. 2. The persons named in the first section of this act shall constitute the first board of directors, and shall hold their office for one year, or until their successors have been elected and qualified; a majority of them shall be a quorum, and their first meeting shall be held at such time and place as they may deem proper, and after a call published thirty days in two newspapers of the State of Texas, signed by a majority of said board, when they may organize for business; appoint time and place for opening subscription books, fix the number of shares and amount of each; the amount of per cent. to be paid in on each share; and when the whole stock has been subscribed and the per centum paid in, call a meeting of the stockholders for per-

manent organization, by thirty days' publication in three newspapers in the State of Texas. And the capital stock of said company shall be two hundred thousand dollars, with authority to raise it to fifteen millions dollars; and the organization of said company shall be completed within twelve (12) months after the passage of this act.

Sec 3. Said company is hereby authorized and empowered to own, construct, maintain, equip and operate a continuous line of railroad, bridges or ferries connecting the same, and telegraph, together with all the rights and appurtenances thereto belonging, or in any way incident or appertaining, commencing at any point within the corporate limits of the city of Galveston; thence westwardly on Galveston Island on the most practicable route to cross West Bay; thence across the Brazos river in Brazoria county, and thence up the Colorado valley on either side of the Colorado river, passing through Matagorda, Wharton, Colorado, Fayette and Bastrop counties, near or to the city of Austin, by the route deemed most practicable by the said company after making the surveys; and said railway shall be of a gauge of three feet. They may make such connections with any other road or roads as they may, by agreement with them, be able to do.

Sec. 4. Said company shall have the right of way over the State of Texas on their line, and over any lands by whomsoever owned, subject to the general laws of the State governing such cases, for a width of two hundred feet, and the usual depots, turnouts, machine shops, &c., and the usual rights of railroads to cross other roads, streams, &c., and shall commence the construction of their said road, at any point on said line which they deem most advisable, within one year after the said permanent organization of said company has been completed; and shall complete and put in running order five miles of said road within one year thereafter, and five miles each succeeding year, until said line of road shall be completed; and on failure to do so, said company shall forfeit all benefits under this charter, except upon completed road.

Sec. 5. The State of Texas hereby donates and grants to the said company, out of any unappropriated public lands of the State, sixteen sections of land, of six hundred and forty acres each, for each and every mile of railroad constructed and put in substantial running order by them; and whenever any section of five miles of said road has

been completed, the said company, through its president and secretary, may give notice of the same to the Governor of this State, in writing, whose duty it shall be, on the receipt of such notice, to order the State Engineer, if there be any, or if there be none, then to appoint a skillful engineer to examine said section of said road, and report under oath; and if said section of five miles of said road be found to be constructed and in running order in a substantial manner, then the Governor shall certify the same to the Commissioner of the General Land Office, and he shall issue to said company sixteen land certificates, of six hundred and forty acres each, for each and every mile of road so constructed and put in running order; and in like manner with each and every succeeding five miles of said road, until the whole has been completed. And said company shall alienate their said lands, acquired under the provisions of this act, except so much thereof as may be necessary for the uses and successful operation of their said road, as follows: one-fourth in eight years, one-fourth in twelve years, one-fourth in sixteen years, and one-fourth in twenty years, from the passage of this charter; and on failure to comply with the provisions of this section, said company shall forfeit all benefits under this charter; provided, that the State shall in no case be liable for a deficiency of public domain, and no land certificate, issued under the provisions of this act, which may not be located because of the previous exhaustion of the public domain, shall ever constitute any claim against the State.

Sec. 6. Said company shall be subject to all general laws now in force, or that may hereafter be enacted in this State, regulating railroads and railroad companies, both as to the rates of freight and passage, as well as to the conduct of its officers and employees. Said company shall be liable to all the restrictions imposed by any general railroad law of this State, and shall be entitled to any of the benefits conferred by the same. Its principal office shall be in the city of Galveston, Texas.

Sec. 7. That this act shall take effect and be in force from and after its passage.

Approved February 2d, 1875.

CHAPTER XIII.

An Act to prohibit the sale or otherwise disposing of intoxicating or spirituous liquors, within two miles of the town of Buena Vista, in Shelby county, and Lavernia, in Wilson county.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be unlawful for any person or persons to dispose of any intoxicating or spirituous liquors (except for medicinal purposes,) by sale or otherwise within two miles of the Academy of Buena Vista, in the county of Shelby, and Lavernia, in Wilson county.

Sec. 2. That any person or persons violating the provisions of this act, shall, upon conviction thereof, be fined in any sum not less than twenty-five dollars nor more than one hundred dollars, for each and every offense.

Sec. 3. That this act shall take effect and be in force from and after the first day of June, A. D. 1875.

Approved February 2d, 1875.

CHAPTER XIV.

An Act concerning "The Gulf, Western Texas and Pacific Railway Company."

Section 1. Be it enacted by the Legislature of the State of Texas, That section one, of "An Act to authorize the consolidation of the Indianola Railroad Company with the San Antonio and Mexican Gulf Railroad Company, under the name and style of 'The Gulf, Western Texas and Pacific Railway Company,'" approved August 4th, 1870, be and the same is hereby amended so as to hereafter read as follows; "Section 1. That in case the Indianola Railroad Company shall contract with the San Antonio and Mexican Gulf Railroad Company for the construction of its road, and the consolidation of the two companies, pursuant to the provisions of the present charters of said companies, then the consolidated company shall be thenceforward styled, "The Gulf, Western Texas and Pacific Railway Company," and in that name shall have all the corporate powers, rights and privileges belonging to the two companies; provided, that said company shall trans-

port immigrants over its road at a rate of passage not exceeding two and one-half cents per mile; provided further, that said company shall be relieved from building, equipping and running the road between the town of Lavaca and the junction of the two roads.

Sec. 2. That section eight of "An Act to revive and continue in force, and supplemental to and amendatory of 'an act to incorporate the San Antonio and Mexican Gulf Railroad Company,' approved September 5th, 1850; and to the several supplementary and amendatory acts concerning said railroad," approved November 14th, 1857, be and the said eighth section of said act is hereby repealed; and that this act shall take effect and be in force from and after its passage.

Approved February 2d, 1875.

CHAPTER XV.

An Act concerning the corporation of the town of Lockhart, in Caldwell county, Texas.

Whereas, The town of Lockhart, in Caldwell county, Texas, was incorporated under the general laws of this State incorporating towns and cities, approved January 27th, 1858; and

Whereas, The municipal authorities of said town were duly elected under said act and were performing the functions of their several offices on the 28th day of October, A. D. 1871, when an act entitled "An Act to incorporate the town of Lockhart in Caldwell county," was approved, which said act was entirely unnecessary, and diminished the authority and jurisdiction of said corporation; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That an act entitled "An Act to incorporate the town of Lockhart in Caldwell county," approved October 28th, 1871, be and the same is hereby repealed.

Sec. 2. That the corporation of the town of Lockhart, in Caldwell county, be and the same is hereby continued, in full force, with all the powers and authority conferred by said general act, approved January 27th, 1858, and all amendments thereto.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved February 3d, 1875.

CHAPTER XVI.

An Act to amend section eight of an act entitled "An Act to incorporate the Gulf, Colorado and Santa Fe Railway Company, and to grant land in aid of the construction of the same," passed May 28, 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That the eighth section of the above recited act which now reads as follows: Section 8. "The said company, when duly organized, shall be and is hereby invested with the right of locating, constructing, owning, operating and maintaining a railway and telegraph line, commencing at the city of Galveston, running westward, crossing the Brazos river at Columbia; thence following the divide between the San Bernard river and Brazos river, keeping an air line as near as practicable to the town of Caldwell in Burleson county; thence to the town of Cameron in Milam county; thence to the town of Belton in Bell county; and in event that the citizens of said towns shall donate to said company the necessary right of way for road, switches and turnouts, to and through said towns, and sufficient grounds for depot purposes, the depot shall be located within half a mile of the court-house in each of said towns; thence up the Leon valley, through Coryell, Hamilton and Comanche counties, to Eastland county, forming a junction with the Texas Pacific Railway; from thence through the border counties to Young Territory; from thence, in a north-westerly direction, over the most practicable route, to the Canadian river, at some point on the said river between the eastern boundary of the Panhandle and the one hundred and second degree of west longitude; thence up the valley of said river to the State line; from thence to Santa Fe, making connection with the Denver and Rio Grande Railway; together with such turnouts, branches, sidings and extensions as the company may deem it to their interest to construct, with authority to construct, own, equip and maintain a branch road from Mill creek to the towns of LaGrange and Bastrop; provided, that when the direct

route of said railway shall run within five miles of any county seat, then said road shall run to said county seat, and establish and maintain a freight and passenger depot at such town; provided, said town shall donate to said road the right of way for a single track, with all the necessary switches, turnouts, side tracks, etc., together with sufficient grounds for depot purposes, not to exceed ten acres," be and the same is hereby so amended that said section shall hereafter read as follows: Section 8. That the said company, when duly organized, shall be and is hereby invested with the right of locating, constructing, owning, operating and maintaining a railway and telegraph line, commencing at the city of Galveston; thence northwesterly on the most direct and practicable route, so as to intersect the Galveston, Harrisburg and San Antonio Railway, on the dividing ridge between the Brazos and San Bernard rivers; thence on an air line, as near as practicable, to the town of Brenham, in Washington county, Caldwell in Burleson county; thence to the town of Cameron in Milam county; thence to the town of Belton in Bell county; and in the event that the citizens of each of said towns shall donate to the said company the necessary right of way for road, switches and turnouts through said towns, and sufficient grounds for depot purposes, the depot shall be located within half a mile of the court-house in each of said towns; thence up the Leon valley through Coryell and Hamilton counties, Comanche in Comanche county, to Eastland county, forming a junction with the Texas Pacific Railway; thence through the border counties to Young Territory; thence in a northwesterly direction, over the most practicable route, to the Canadian river, at some point on said river between the eastern boundary of the Panhandle and the one hundred and second degree of west longitude; thence up the valley of said river to the State line; thence to Santa Fe, making connection with the Denver and Rio Grande Railway, together with such turnouts, branches, sidings and extensions as the said company may deem it to their interest to construct; with authority to construct, own, equip and maintain a branch road from Mill creek to the towns of LaGrange and Bastrop; provided, that when the direct route of said railway shall run within five miles of any county seat, the said road shall run to said county seat, and establish and maintain a freight and passenger depot at such town; provided, said town shall donate to

said road the right of way for a single track, with all necessary switches, turnouts, side tracks, etc., together with sufficient grounds for depot purposes, not to exceed ten acres.

Sec. 2. That this act shall take effect and be in force from and after its passage.

Approved February 5th, 1875.

CHAPTER XVII.

An Act amendatory of "An Act to incorporate the Galveston Agricultural, Horticultural and Industrial Association."

Section 1. Be it enacted by the Legislature of the State of Texas, That the "Act to incorporate the Galveston Agricultural, Horticultural and Industrial Association," approved May 21st, 1871, be and the same is hereby amended as follows: That the directors of said association, for the purpose of improving its Fair Grounds, and constructing buildings thereon, and to pay the present indebtedness of said association, are hereby authorized and empowered to borrow money, to issue its bonds and obligations therefor, in such amount and in such manner and form, payable at such time and place, and at such rates of interest in lawful currency of the United States, as the directors of said association may deem just and proper. And, to secure the prompt payment of said bonds and obligations, the said directors may mortgage or give a trust deed upon all of the capital stock of said association, its corporate franchises, and any and all of its property, both real and personal, or any part or portion thereof, in such manner and form as its directors shall deem best and expedient.

Sec. 2. That an act amendatory of "An Act to incorporate the Galveston Agricultural, Horticultural and Industrial Association," approved May 30th, 1873, be and the same is hereby repealed.

Sec. 3. That this act shall take effect and be in force from and after its passage.

Approved February 6th, 1875.

CHAPTER XVIII.

An Act to incorporate the South Western University.

Section 1. Be it enacted by the Legislature of the State of Texas, That an institution of learning be and the same is hereby authorized to be established at Georgetown, Williamson county, Texas, to be designated as the South Western University.

Sec. 2. That George F. Alford, William B. Norris, L. C. Roundtree, M. C. McLemore, T. W. Folts, C. W. Hurley, B. R. Davis, John R. Henry, S. S. Munger, F. A. Mood, W. J. Clark, M. H. Bonner, W. G. Veal, Charles E. Lee, H. E. McCullough, trustees; and Thomas Stanford, Jacob Binckley, R. W. Kennon, F. M. Stovall and J. W. DeVilbiss, curators, be and are hereby created a body corporate under the name and style of the Board of Trustees and Curators of the South Western University.

Sec. 3. That the trustees shall have succession, subject to such regulations as the several annual conferences of the Methodist Episcopal Church South, patronizing the South Western University, shall determine. They shall be capable in law to sue and be sued, plead and be impleaded, to enact by-laws, rules and regulations; to have and to hold and enjoy in trust for the Methodist Episcopal Church South, all property of whatsoever kind that be granted them by donation, bequest or otherwise, for the benefit of said institution; to convert said property into money, and disburse the same to promote the prosperity and interest of said institution, and generally to do and perform all acts needful and proper to secure the permanency and prosperity of said institution; provided, they shall never pledge, mortgage or alienate by sale or otherwise any real estate of said university, for the purpose of paying the salaries of regent, professors, tutors, agents or other officers thereof. They shall have a common seal for the transaction of business, and five members shall constitute a quorum for business.

Sec. 4. That the board of trustees shall annually present to the several patronizing conferences a written statement, showing the exact fiscal condition of the university, as to buildings, lands, libraries, apparatus, funds, the expenditures, the indebtedness, if such exists, as well as

income, whether from tuition, interest on invested funds, donations, bequests or any other source. And the building, libraries, lands, apparatus and other property shall be exempt from any kind of tax so long as used for the support or endowment of the university.

Sec. 5. That they are authorized to establish a school of law, a school of medicine, and a school of theology, at such places in the State of Texas as they may hereafter determine.

Sec. 6. That the board of curators shall have succession under such regulations as the several annual conferences, patronizing the university shall determine. They shall have power to elect the regent, professors, tutors and teachers thereof; to confer degrees in the arts and sciences on the graduates of the university, and on such other persons as they may deem worthy, and give diplomas signed by the regent and professors under the seal of the university.

Sec. 7. That the right to confer degrees, regular and honorary in the arts and sciences, heretofore conveyed through the Legislature of the State of Texas in the charters of Rutgersville College, Rutgersville Wesleyan College, San Augustine, Soule University, Chapel Hill and to McKenzie's College, Clarksville, Red River County, are hereby transferred and perpetuated and retained to said curators, and the graduates of said colleges and university shall be entitled to all the literary privileges and honors inuring to other graduates of the South Western University.

Sec. 8. That the board of curators shall annually present to the several patronizing conferences, written statements of the exact condition of the university as to the rules and regulations and by-laws adopted by the curators, the number and grade of pupils in attendance during the year, as well as the number of professors, tutors and teachers, and the said conferences may receive the same, and by concurrent action, make such alterations to any items they may deem proper and expedient; and also transmit to the board of curators such instructions for their observance as the prosperity of the university may demand.

Sec. 9. That nothing in this act shall be so construed as to allow banking privileges not contemplated by this charter; and the funds belonging and property in any wise appertaining to said university, shall not be diverted from the object for which the same was donated; and all donations and bequests to said university shall be good and

binding, although the corporate name thereof may not have been properly stated by any person or persons making said bequest or donation.

Sec. 10. That this act shall take effect from and after its passage, and shall continue in force fifty years from the date of its passage.

Approved February 6th, 1875.

CHAPTER XIX.

An Act supplementary and amendatory of "An Act to incorporate the Western Narrow Gauge Railway Company, approved August 4, 1870, and of the several acts supplementary and amendatory thereto."

Section 1. Be it enacted by the Legislature of the State of Texas, That the Western Narrow Gauge Railway Company change its name to that of The Texas Western Narrow Gauge Railway Company, and by that name may sue and be sued, grant and receive and generally do and perform all such acts and things as it could heretofore legally as under its present name, and all acts heretofore done under said name shall in no way forfeit or change any rights, grants or liabilities now existing between said company and the State of Texas or third parties; provided, that this act shall be first accepted by the board of directors, and notice of said acceptance be filed in the office of the Secretary of State.

Sec. 2. That said company shall have the right to extend its main lines so as to cross the Rio Grand river at or near Presidio del Norte, and that said company shall have the right to locate and construct, equip and operate a branch railway, commencing on its main line in the county of Caldwell or Hays, and passing through the counties of Hays, Blanco, Llano, San Saba, and thence to such a point on the northwestern frontier of the State as may be found suitable to form a connection with the Denver and Rio Grande Railway or any other railway of like gauge. That said company in constructing and operating said branch shall be entitled to all the rights, grants and privileges now pertaining or which may hereafter pertain to its main line, and that the work of construction on said branch shall commence within three years from the passage of this act, and

that twenty miles of railway shall be completed on said branch every year thereafter until the same shall have reached the San Saba river, in San Saba county, and that the whole of said branch shall be completed to the frontier line within ten years thereafter; otherwise all the rights, privileges and franchises conferred upon this company by this act for the purpose of said branch shall be forfeited except as to the railway then constructed.

Sec. 3. That said company shall construct and equip its railway in a good and substantial manner of three feet gauge, with iron or steel rails and in accordance with the usual method of like railway construction, and that for all the railway so constructed said company shall receive from the State sixteen sections of land, of six hundred and forty acres each, for every mile which shall be located and surveyed, and alienated according to the provisions of its charter and the general laws of the State; and said company shall otherwise also be subject to all the duties and responsibilities imposed by the terms of its charter and by the general laws of the State; provided, that the State shall never be liable for any deficiency of the public domain.

Sec. 4. This act shall take effect and be in force from and after its passage.

Approved February 6th, 1875.

CHAPTER XX.

An Act for the relief of R. B. Shaw.

Section 1. Be it enacted by the Legislature of the State of Texas, That the county court of Kaufman county be and they are hereby authorized to refund to R. B. Shaw, ex-sheriff of Kaufman county, the sum of one thousand seven hundred and eighty-seven fifty-eight one hundredths (\$1787.58) dollars; said sum being in excess of the amount of school funds of 1871 collected and paid to said court by R. B. Shaw, in settlement of taxes with said court.

Sec. 2. That this act take effect from its passage.

Approved February 8th, 1875.

CHAPTER XXI.

An Act to authorize the Commissioner of the General Land Office to issue patents to the following leagues of land located in San Augustine county, in this State, between the 13th day of November and the 1st day of December, 1835, and to validate the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That the surveys of the following leagues of land granted to James Johnson and John Lucas, in San Augustine county, in the State of Texas, between the 13th day of November and the 1st day of December, 1835, by virtue of order of surveys or grants of land by George Antoine Nixon, Land Commissioner for Nacogdoches Land District, be and the same are hereby validated, and the Commissioner of the General Land Office is hereby authorized and required to issue a patent on the same to the original grantees or assignees.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved February 8th, 1875.

CHAPTER XXII.

An Act to prohibit the sale or giving away of intoxicating liquors within five miles of certain places therein named.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall not be lawful for any person or persons, with or without license, to sell, barter, give away, or in any manner dispose of any spirituous, vinous, or other intoxicating liquors, within a radius of five miles of the following named places, to-wit: Kimball Male and Female Academy, in Bosque county, and Norman School-house, in Bosque county; Pilot Point in Denton county; Lone Oak in Hunt county; Strickland in Burnet county; Harmony Hill in Rusk county; and Possum Walk in Leon county.

Sec. 2. That any person violating the provisions of this act shall, upon conviction thereof in any court of competent jurisdiction, be fined in any sum not less than ten dollars, nor more than one hundred dollars.

Sec. 3. That this act take effect and be in force from and after the first day of May, A. D. eighteen hundred and seventy-five.

Approved February 8th, 1875.

CHAPTER XXIII.

An Act to authorize the county of Karnes to build bridges across the San Antonio and Cibolo rivers.

Section 1. Be it enacted by the Legislature of the State of Texas, That the county court of Karnes county be and is hereby authorized and empowered to build two bridges, one across the San Antonio river, at or near the town of Helena; and the other across the Cibolo, on the most practicable route between the towns of Helena and Panna Maria in said county; said sites to be selected under the directions of said county court.

Sec. 2. That the county court of said county of Karnes be and is hereby authorized and empowered to issue the bonds of said county for a sum not to exceed ten thousand dollars, bearing interest at the rate of eight per cent. per annum from the date thereof payable in installments of not less than one year, nor more than thirty years from the date thereof, to the builders of said bridges in payment and satisfaction for the building and construction of the same.

Sec. 3. That the county court of said county of Karnes be and is hereby authorized and empowered to levy a tax not to exceed one-half of one per cent. annually on all the taxable property within said county, to be collected at the same time and in the same manner that the State and county taxes are collected, which said tax, when collected, shall be appropriated by said county court to the payment of the interest on the bonds issued in accordance with the second section of this act, and two per cent. as a sinking fund for the redemption of the principal as prescribed by the constitution, and the overplus, if any, to the payment and satisfaction of said bonds; and said tax shall continue to be levied annually until all indebtedness incurred in the building of said bridges is paid and satisfied.

Sec. 4. That said bridges shall be constructed in a durable and substantial manner above the highest water mark

on said streams, and shall be free to all persons; provided, said county court may, when deemed expedient, assess against the non-residents of Karnes county such a rate of toll as shall be reasonable, to be fixed by said county court, and posted at each entrance of said bridges.

Sec. 5. That the county court of said county be and are hereby constituted the supervisors of said bridges, to control and manage the building of the same, either by themselves or their appointees, and to receive the same from the hands of the builders, and to control and manage the same after they are completed in a manner which to them may seem most advantageous to the public good.

Sec. 6. That this act take effect and be in force from and after its passage.

Approved February 10th, 1875.

CHAPTER XXIV.

An Act to enable the citizens of the town of Ledbetter to reorganize their municipal government.

Section 1. Be it enacted by the Legislature of the State of Texas, That J. F. McGuire, W. B. McClellan, W. T. Fitz and G. W. Radford, be and they are hereby created a board of commissioners for the town of Ledbetter, with power and authority to order and hold an election, for all municipal officers of said town, made elective by its charter, which election shall be held on the first Tuesday in April, 1875, within the hours prescribed by law for general elections, and after ten days notice by posting at three public places within said corporation.

Sec. 2. Any two of said commissioners are authorized to act, and before proceeding with said election, they shall take an oath before some authorized officer, to well and truly conduct said election, according to law, and to declare the result thereof without partiality or prejudice.

Sec. 3. Upon closing the polls, said commissioners shall proceed to ascertain the result, and thereafter, and within five days, to issue to the successful candidates for each of said offices, their certificate of election, and the persons so elected, upon qualification before some officer of Fayette county, authorized to administer oaths, shall enter at once

upon their respective duties and hold their offices for the terms prescribed in the original act of incorporation of said town.

Sec. 4. This act shall take effect and be in force from its passage.

Approved February 13th, 1875.

CHAPTER XXV.

An Act supplemental to and amendatory of an act entitled "An Act to incorporate the Corpus Christi and Rio Grande Railway Company, and to aid in the construction of the same," passed May 24th, 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Corpus Christi and Rio Grande Railway Company, which was incorporated by an act entitled "An Act to incorporate the Corpus Christi and Rio Grande Railway Company," passed May 24th, 1873, be and is hereby authorized to build and construct said railroad, with a gauge of three feet, if in the judgment of the directors of said company, said gauge shall be preferred.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved February 13th, 1875.

CHAPTER XXVI.

An Act to amend sections three (3) and seven (7) of "An Act to incorporate the Rusk Transportation Company," approved May 2d, 1874.

Section 1. Be it enacted by the Legislature of the State of Texas, That section three (3) of "An Act to incorporate the Rusk Transportation Company," approved May 2d, 1874, be so amended as to hereafter read as follows: Section 3. That said company shall have the right to construct, own and operate a narrow gauge railway, of such width of gauge as the directors may establish, not exceeding the "State gauge," nor of less gauge than thirty-six inches. Said railway to commence at Jacksonville in Cherokee county, on the line of the International and Great Northern Railroad, and from that point extend

southward to the towns of Rusk and Alto in Cherokee county, Homer in Angelina county, Woodville in Tyler county, Concord in Hardin county, Beaumont in Jefferson county, and to Sabine Pass in Jefferson county; and said road may also extend northward from Jacksonville through Larissa in Cherokee county, by the way of Etna, to Tyler in Smith county; and that the line of said road shall be required to run to said towns herein named. Said company shall have the right to connect their road with the International and Great Northern Railroad, and to cross the same, and to connect with or cross any other railroad or highway in this State.

Sec. 2. That section seven (7) of the above recited act be so amended as to hereafter read as follows: Section 7. That upon the completion of said railway from the town of Jacksonville to the town of Rusk in said Cherokee county, said company shall be entitled to have and receive a donation of sixteen sections of land, containing six hundred and forty acres (640) each, for each and every mile of said road so completed; provided, that said sixteen sections of lands shall include the eight sections of land already donated to said company by the said seventh section of said act, to which this is an amendment. And that upon the completion of every ten miles of said railway, southward from said town of Rusk, or northward from said town of Jacksonville, said company shall be entitled to have and receive a donation of sixteen sections of land, containing six hundred and forty (640) acres each, for each and every mile of road so completed. Said land to be taken in alternate sections any where out of the public domain of this State, not otherwise appropriated; and it is hereby made the duty of the Commissioner of the General Land Office to issue certificates for said land to the president of said company as soon as said road is completed as herein provided, and inspected, and when said certificates shall have been located, patents shall issue thereon as in other cases.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved February 13th, 1875.

CHAPTER XXVII.

An Act to prohibit the manufacture or sale of intoxicating liquors within two miles of the public square of the town of Honey Grove, Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be unlawful for any person to manufacture, sell or give to another, intoxicating or spirituous liquors, or bitters containing spirits of any kind for any purpose whatever within two miles of the public square of the town of Honey Grove, Fannin county, Texas.

Sec. 2. That any person violating the provisions of section one of this act, shall, on conviction before any court of competent jurisdiction, be subject to a fine of not less than ten, nor more than fifty dollars, for each and every such offense.

Sec. 3. That this act take effect and be in force from and after the 1st day of July, 1875.

Approved February 15th, 1875.

CHAPTER XXVIII.

An Act to incorporate the Austin Bridge Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That Carroll E. Gray, Thomas J. Whitman, Henry Flad, Albert B. Bowman, of the City of St. Louis and State of Missouri, and such other persons as they may associate with them, their successors and assigns, be, and they are hereby incorporated into a joint stock company under the name and title of the Austin Bridge Company, and under such name may sue and be sued; hold such real estate and personal property as may be necessary for their purpose and have succession for ninety-nine years.

Sec. 2. Said company shall have the right to construct a bridge of wood or iron or both combined, across the Colorado river, as (at) such point within the water front of the city of Austin in Travis county as they may select.

Sec. 3. Said company shall construct said bridge in a good and substantial manner, at least five feet above the

highest water mark; and shall begin said bridge within six months; and shall have two years from the passage of this act to complete the same; and shall keep the same in good order for travel; and shall at all hours of the day and night be ready to receive and pass all travelers, vehicles and stock of every description that may apply to cross; and shall be responsible as common carriers for any loss of property in transit over said bridge; but shall not be responsible for detention occasioned by damage to the bridge by a sudden freshet; provided, such damage is repaired and the bridge again opened to travel in the shortest time possible.

Sec. 4. The said company shall have the right to establish said bridge at any point within the water front of the city of Austin, and shall have the right to enter upon and take possession of such lands as may be necessary for said bridge and its approaches, or for toll houses, by complying with the general railroad laws of the State of Texas, for the condemnation of property required for railroad purposes.

Sec. 5. This corporation shall have a common seal; and shall have power to make such by-laws and regulations for their government as they may deem necessary; and shall have their office and legal domicile in the city of Austin.

Sec. 6. The capital stock of this company shall not be less than fifty thousand, nor more than six hundred thousand dollars, divided into shares of one hundred dollars each; and no stock shall be issued which does not represent actual interest in said corporation.

Sec. 7. The affairs of this company shall be managed by a board of directors of not less than three (3), nor more than seven (7), who shall choose their own officers, each of which directors shall own at least five shares of stock.

Sec. 8. That when said bridge shall be completed, said company shall be authorized to demand and receive the following rates of toll, viz: For every loaded wagon and six horses, mules or oxen, one dollar, and ten cents for each pair of animals additional; for every loaded wagon and four horses, mules or oxen, seventy-five cents; for every loaded wagon and two horses, mules or oxen, fifty cents, and one-half the above rates for any of the above wagons if empty; for any vehicle drawn by one horse, mule or ox, twenty-five cents each way; for every horseman, ten cents;

for every footman, five cents; for every head of loose horses, mules or cattle, five cents each; and for sheep, hogs or goats, two and one-half cents each.

Sec. 9. That at the expiration of five years from the opening of said bridge to travel, the city of Austin or the county of Travis shall have the right to purchase said bridge with all its rights and privileges on payment to said company of the amount actually expended in its construction, with interest thereon at the rate of ten per cent. per annum from the time of said opening to travel, and for the purpose of ascertaining said cost of construction, the books of said company shall be opened to the inspection of the legally authorized agents of said city or county, upon affidavit by said agents that such application is made in good faith and not for purpose of annoyance or speculation.

Sec. 10. That for a period of fifteen years from the opening of said bridge, no other toll bridge for purposes of common travel shall be erected within three miles of said bridge; provided, this shall not apply to any bridge built and used exclusively for railroad travel.

Approved February 18th, 1875.

CHAPTER XXIX.

An Act for the relief of James F. Lyon.

Section 1. Be it enacted by the Legislature of the State of Texas, That James F. Lyon, of the county of Navarro, be and he is hereafter authorized and permitted to peddle, trade and traffic in any county in this State, without the payment of any license tax therefor; provided, this act shall not be so construed as to authorize the said person to sell intoxicating liquors without license; provided further, that the business carried on under this act shall be the sole business of said Lyon, conducted in good faith, and he shall not engage in business at more than one place at the same time.

Sec. 2. That this act shall take effect and be in force from and after its passage.

Approved February 24th, 1875.

CHAPTER XXX.

An Act supplementary to and amendatory of an act entitled
An Act to amend sections seven, ten and twenty of an act
entitled "An Act to incorporate the Tyler Tap Railroad
Company," passed May 7, 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That section five of the above entitled act shall hereafter read as follows: Section 5. That whenever the said Tyler Tap Railroad Company shall have graded and completed ten miles or more of its road bed ready for laying the track, and upon the completion of each additional ten miles, the Governor shall appoint some suitable person to inspect said road bed, and if the person so appointed, after inspecting the same, shall report that said road bed is constructed in compliance with the terms of the acts of incorporation of said company, the Commissioner of the General Land Office shall issue to said company eight certificates for six hundred and forty acres of land each, for each mile of road bed so completed and inspected, and said certificates shall issue upon the same terms and conditions in other respects as required by the acts of incorporation of said company; provided, that upon the completion of its road, said company shall only receive eight additional sections of land upon that portion of the road upon which eight sections have been issued upon the completion of the road bed.

Sec. 2. That the said railroad company may construct its road, or any part thereof, of a gauge of three feet in width; provided, that for all of said road constructed of a less gauge than four feet eight and one-half inches, the said company shall only receive twelve sections of land per mile upon its completed road, or six sections per mile upon the completion of its road bed.

Sec. 3. That this act shall take effect and be in force from and after its passage.

Approved February 25th, 1875.

CHAPTER XXXI.

An Act to validate the acts of J. B. B. Supple, Notary Public of Bell county.

Section 1. Be it enacted by the Legislature of the State of Texas, That the official acts of J. B. B. Supple, a Notary Public, appointed by the Governor during the

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recess of the Senate, for Bell county, heretofore done and performed in pursuance to law, shall be as valid and binding as though said notary had been appointed by and with the advice and consent of two-thirds of the Senate.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved February 25th, 1875.

CHAPTER XXXII.

An Act to authorize the county court of De Witt county to have a bridge built across the Sandies creek in said county.

Section 1. Be it enacted by the Legislature of the State of Texas, That the county court of De Witt county be authorized to build a bridge across the Sandies creek at some point between the mouth of said creek and the mouth of its tributary, known as the Clear creek; provided, that the cost of said bridge shall not exceed the sum of twenty-five hundred dollars.

Sec. 2. That the county court of said county may assess an ad valorem tax upon all property within the county not exempt by law from taxation, sufficient to defray the cost of the constructing of the bridge provided in the first section of this act.

Sec. 3. That this act take effect from its passage.

Approved February 27th, 1875.

CHAPTER XXXIII.

An Act to encourage the construction of a canal from or near the Marble Falls, on the Colorado river, to the city of Austin.

Whereas, James M. Bryant and others have organized themselves into a body politic and corporate in due form of law, under the statute law of the State of Texas, under the name of the Capital Canal Company, and now constitute a body politic and corporate, under the name aforesaid, having for an avowed and express object the construction of a canal from or near the Marble Falls, on the

Colorado river, to the city of Austin, with sufficient water supply to meet all the water wants of said city of Austin; said canal to be not less than ten feet wide at the top, four feet deep, and five feet wide at the bottom; and whereas, the construction of said canal is deemed a work of public and general utility; therefore, to facilitate and encourage the construction thereof,

Section 1. Be it enacted by the Legislature of the State of Texas, That there is hereby granted to said Capital Canal Company twenty sections of land of six hundred and forty acres each, for each and every mile of canal it may construct between the said Marble Falls, or near thereto, on the Colorado river, and the city of Austin, to be measured from the city of Austin towards said Marble Falls, or from said Marble Falls towards said city of Austin along the line of said canal; provided, the State of Texas shall not be responsible to said Capital Canal Company for any deficiency in the public domain.

Sec. 2. That so soon as two and one-half miles, or any greater distance of said canal shall be excavated and the same inspected by a competent engineer, to be appointed by the Governor for that purpose, and a report thereof is made that the excavation is sufficiently made to accomplish the construction of said canal in part for the purposes intended, the said Capital Canal Company shall be entitled to receive the said twenty sections of land for each mile and in proportion for each half mile of said canal so inspected and reported on; and on filing in the General Land Office a certified copy of said report, it shall be the duty of the Commissioner of said General Land Office to issue and deliver to said Capital Canal Company, or its agent, land certificates as authorized by this act, which certificates when issued shall be located, surveyed and patented as other lands granted to other works of internal improvements are located, surveyed and patented in this State.

Sec. 3. That the said Capital Canal Company shall be entitled to twenty-five sections of land, to aid and facilitate in the construction of its general supply reservoir, to be paid to it when the said reservoir shall be fully completed and reported by a competent engineer, to be appointed by the Governor for that purpose, that the same is safe and free in all respects from danger to the city of Austin and its inhabitants.

Sec. 4. That the right of way is hereby expressly granted to said Capital Canal Company to enter upon and condemn any lands along its line, as railroads are allowed to do under the general railroad laws of this State.

Sec. 5. That it shall be the duty of said Capital Canal Company, after the said canal and reservoir shall have been constructed and completed, to furnish the city of Austin, free of all charge, all necessary water for fire purposes, the sprinkling of the streets, and to irrigate all public grounds, parks and places of resort that belong to the State of Texas, or city of Austin, or that may be hereafter acquired by them; and the said Capital Canal Company shall also furnish to the State of Texas, free of all charges, all necessary water to irrigate the Capitol Grounds, the grounds about the mansion, the General Land Office, and the Blind, Lunatic and Deaf and Dumb Asylums, and such other buildings or grounds as may belong to the State of Texas, or that may be hereafter acquired by it, both for irrigation and fire purposes; provided, the said State of Texas and city of Austin shall provide, free of cost to said company all necessary piping and conductors, and lay, establish and construct the same as it may seem best for them to do, to best use the water that may be supplied to accomplish and carry out their objects.

Sec. 6. That the said Capital Canal Company shall not be allowed to charge more than the following maximum rates for water furnished, to-wit: For each family of four persons of adult age ten dollars per annum, and all additional members of each family shall be charged in proportion; persons ten years old and under to be charged as two for one; retail groceries, where liquors are not retailed, twenty-five dollars per annum; retail groceries where liquors are sold in quantities less than one quart, fifty dollars per annum; liquor stores, doing bottling of wine, ale, beer, or other liquors, seventy-five dollars per annum; stores without families, twenty-five dollars per annum; each horse, five dollars per annum; water in barrels, five cents a barrel; coffee-houses, twenty-five dollars per annum; restaurants, twenty-five dollars per annum; confectioneries, twenty-five dollars per annum; manufactories, steam-mills, tan yards and brick yards, shall be charged according to contract, to be made between said company and the parties owning and operating the same; hotels, one hundred dollars per annum; taverns, fifty dollars per

annum; boarding houses, twenty-five dollars per annum; soda shops, twenty-five dollars per annum; livery stables, one hundred dollars per annum; bakeries, twenty-five dollars per annum; dyeing and scouring and other establishments not herein mentioned, shall be charged according to contract and agreement entered into between said company and the parties owning and operating such establishments; provided, that if the city of Austin, or its citizens, provide and supply all necessary pipes, conductors and proper attachments, and lay and establish the same, to carry the water to the inhabitants of said city of Austin, then the said Capital Canal Company shall not be allowed to charge more than one-half the above rates for water; provided further, that the State of Texas reserves the right to regulate and define the prices to be charged by said company for water sold by it.

Sec. 7. That said Capital Canal Company shall construct at least seven miles of said canal within fifteen months, and shall complete the whole canal, including the reservoir, within three years after the passage of this act, or in default thereof, forfeit all rights given by this act, or that may have been acquired by a partial completion of said undertaking.

Sec. 8. That this act shall take effect and be in force from and after its passage.

Approved February 27th, 1875.

CHAPTER XXXIV.

An Act to authorize the County Court of Galveston county to use certain special funds in the payment of her bonded debt.

Section 1. Be it enacted by the Legislature of the State of Texas, That the county court of Galveston county be and hereby is authorized and empowered to use, in the liquidation of the bonded debt of said county, all moneys levied for the use of public roads and bridges now in the treasury of said county or that may be collected upon the tax rolls for the years 1871, 1872 and 1873.

Sec. 2. This act shall take effect from and after its passage.

Approved February 27th, 1875.

CHAPTER XXXV.

An Act to amend "An Act to incorporate the Dallas and Wichita Railroad Company," and to aid in the construction of said road, and approved May 24, 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Dallas and Wichita Railroad Company be and they are hereby authorized and empowered to construct their road with a three-foot gauge, if in their opinion they deem it expedient, and all the rights, privileges and franchises now vested in the said company, shall remain and be enjoyed by them should they so adopt, and construct the road with the (3) three-foot gauge.

Sec. 2. That whenever and as often as said Dallas and Wichita Railroad Company shall give notice to the Governor of the State that ten or more miles of its road bed is completed, it shall be his duty to appoint some skillful engineer, if there be no State engineer, to examine said completed road bed, and upon his report to the Commissioner of the General Land Office that said road bed is constructed in a good and substantial manner, as required by law, and upon the payment of the expense of such examination by said company, the Commissioner of the General Land Office shall issue to said company four certificates for six hundred and forty acres each, for every mile of completed road bed, and authorize said company to proceed at once to survey thirty-two sections, of six hundred and forty acres each, for every mile of road bed so completed and accepted; to each alternate section of which it will become entitled when said railroad is completed and in running order upon and over said road bed according to the terms, conditions and provisions of its charter; whenever said company shall return to the Commissioner of the General Land Office the field notes and maps of the lands so surveyed, they shall be placed on file in the General Land Office, and in the office of the surveyor of the district in which the lands are situated, and thereupon and thereafter, for the period of one year, the said lands shall be withdrawn and reserved from sale, location and pre-emption; and the alternate sections thereof be held and reserved expressly for the location thereon of the land certificates of the said railroad company; should said company fail to locate certificates upon

the lands surveyed within the time specified, they shall forfeit all claims to the land not located on, and to the field notes and maps thereof.

Sec. 3. That the Dallas and Wichita Railroad Company is hereby invested with the right to locate, construct, own and maintain a branch railroad and line of telegraph to any city or town, coal, copper or iron mine situated within the limits of any county through which the main line of said railroad may run, and to extend either of said branches beyond the limits of said counties into, but not beyond, the limits of the county next adjoining, wherever such extension will secure junction and connection with any other railroad and line of telegraph; the said branches shall be considered mere extensions of said Dallas and Wichita Railroad, and shall receive all the benefits and privileges, and be subject to all the provisions, conditions and requirements of the charter of said corporation; provided, that no State subsidy shall be claimed nor granted for any part of said branch railroads that may run parallel to and within ten miles of any completed railroad.

Sec. 4. That all laws or parts of laws in conflict with the provisions of this act are hereby repealed. This act shall take effect and be in force from and after its passage.

Approved February 27th, 1875.

CHAPTER XXXVI.

An Act to authorize the corporation of the town of Henderson, in Rusk county, to aid in the construction of the "Henderson and Overton Railroad."

Section 1. Be it enacted by the Legislature of the State of Texas, That the mayor and board of aldermen of the town of Henderson, at their discretion, be and they are hereby authorized and empowered to issue bonds of said corporation to the amount of ten thousand dollars, or so much thereof as they may deem necessary, to aid the Henderson and Overton Railroad Company, in constructing and securing the right of way for a railroad from Overton to the town of Henderson, in Rusk county; and to levy and collect an ad valorem tax of not more than one-fourth of one per cent. in any one year, on all the

taxable property within the corporate limits of said town; and a poll tax of not more than one dollar per capita on all the qualified voters in said town to pay off said bonds.

Sec. 2. The mayor and board of aldermen of said town are hereby authorized to pass any ordinance, and adopt any regulations not inconsistent with the Constitution of the United States and of this State, to carry this act into effect. Said bonds shall be signed by the mayor and counter-signed by the treasurer of said town, and be made payable at such times and in such manner as the said town officers may designate.

Sec. 3. That this act shall take effect and be in force from and after its passage.

[Note.—The foregoing bill was presented to the Governor of Texas for his approval on the twenty-sixth day of February, A. D. 1875, and was neither signed by him nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the constitution, and thereupon became a law without his signature. "Signed," A. W. DeBerry, Secretary of State.]

CHAPTER XXXVII.

An Act to incorporate the Fairfield, Hillsboro and Cleburne Railway Company, and to grant lands to aid in the construction thereof.

Section 1. Be it enacted by the Legislature of the State of Texas, That Wm. M. Peck, Benjamin Lombard, W. R. Darie [Davie], James J. Gathings, Joseph Abbott, T. D. Loramier and Benjamin J. Chambers, be and are hereby appointed commissioners to open books and receive subscriptions to the capital stock of a corporation hereby created, to be styled the Fairfield, Hillsboro and Cleburne Railway company.

Sec. 2. That a majority of the commissioners shall constitute a board for the transaction of business, and shall hold meetings from time to time, until directors shall be elected, as provided hereinafter.

Sec. 3. That at the time of subscribing to the stock of this company, five per centum of the amount subscribed shall be paid in, unless otherwise provided by the commissioners or directors.

Sec. 4. That the subscribers to the capital stock of this company, are hereby created and established a body corporate and politic, under the name and style of the Fairfield, Hillsboro and Cleburne railway company, with capacity to contract, to sue and be sued, to plead and be impleaded, to have succession and a common seal, to grant and receive, to hold and alienate real estate, and generally to do and perform all acts and things as may be necessary, proper or incident to the fulfillment of its obligations, or the maintenance of its rights under this act, consistent with the provisions of the Constitution of this State.

Sec. 5. The capital stock of this company shall not exceed three millions of dollars, to be divided into shares of one hundred dollars each, each share to entitle its owner and holder to one vote in all meetings or elections of the stockholders; and a majority of the stock shall govern, except in cases otherwise specially provided for; the said shares of stock shall be deemed personal property, transferable as the by-laws may direct.

Sec. 6. The direction and control of said corporation and its affairs shall be vested in a board of not less than seven nor more than nine directors, to be chosen by the stockholders at an annual meeting, the first of which shall be held at Wortham, whenever one hundred thousand dollars shall have been subscribed, and five per cent. thereof paid to the aforesaid commissioners.

Sec. 7. That a majority of the directors shall constitute a quorum to do business, and at their first meeting they shall elect one of their number to be president and one vice-president; the board shall appoint a secretary and treasurer, and other officers requisite to carry on the business of the company.

Sec. 8. The said company, when duly organized, shall be and is hereby invested with the right of locating, constructing, owning, operating and maintaining a railway, commencing at the town of Weatherford; thence to Cleburne, in Johnson county; and establish and maintain a passenger and freight depot within one-half mile of the centre of the business part of said town; provided, said town shall furnish sufficient ground for a depot, switches, turnouts, and right of way, not to exceed fifteen acres; thence to the town of Hillsboro, in Hill county, and establish and maintain a passenger and freight depot within one-half mile from the centre of the business part of said town;

provided, said town shall furnish the said road the necessary lands for such purposes, to-wit: for depot, turnouts, switches, and right of way, not to exceed fifteen acres; thence to the town of Fairfield, in Freestone county, running within one-half mile of the depot-house and passenger depot now established by the Houston and Texas Central Railway, at Wortham station, in Freestone county; provided, said company shall establish a passenger and freight depot within one-half mile of the centre of the business portion of said Wortham station, and of the court-house in said town of Fairfield; provided, said towns shall respectively donate to such company sufficient lands for such purposes, not exceeding fifteen acres each; and the said company shall have a right to form junctions, crossings or running connections with any railroad on their line, between or at Fairfield and Weatherford, with full power to unite with any other company upon such terms as may be agreed upon; and the right to construct their railway across all public highways and all railroads that it may be necessary to cross to establish said railway; and the right to cross and bridge all water courses along the line, subject to the laws of this State regulating navigation.

Sec. 9. Any agreement in writing to subscribe for stock may be enforced according to the terms of subscription, and unless payments be made according to the terms of subscription, the directors, after thirty days' notice, may sell said delinquent stock, and transfer the shares of said delinquent stock to the purchaser thereof, or proceed to collect the same by law, at the option of the directors.

Sec. 10. It shall be lawful for said company to enter upon, purchase, or otherwise receive, take, hold or obtain any lands for the purpose of locating, constructing and maintaining said railway, with all the necessary turnouts, sidings, switches, extensions and buildings, connected with said railway; when land cannot be obtained by agreement with the owner or owners thereof, they shall pay such compensation as shall be determined in the manner hereinbefore set forth; provided, that the land taken for this railway shall not exceed two hundred feet in width, unless for the depots and buildings, and during the construction of said road.

Sec. 11. That if any person or persons, whose lands may be taken for the purposes aforesaid, and the said Fairfield, Hillsboro and Cleburne railway company, cannot

agree upon the value thereof, either party may apply to the presiding justice of the county in which the land or premises are situated, for the appointment of commissioners, whose duty it shall be to assess the value thereof, and upon such application, such presiding justice shall appoint three disinterested freeholders of said county, who shall thereupon appoint a time to view the land and premises aforesaid, and hear the owner thereof and the said company, to whom shall be given by said commissioners reasonable notice of the time and place of said hearing; in determining the amount of compensation for land and premises, said commissioners shall be governed by the actual value of the property at the time it was taken; and said commissioners, after being duly sworn, and after hearing the parties and such evidence as they produce, shall determine the amount of compensation, if any, to which the owner of the land and premises shall be entitled, which said award shall then be paid to the owner of such lands or premises by said company; provided, however, that during the enquiry as to the value of said lands and premises, said company shall in no manner be molested or hindered in the prosecution of their work thereon, or in the occupation or use thereof; provided, further, that said company shall deposit with the said presiding justice a bond and security, approved by said justice, guaranteeing the payment of said award, which said payment shall rest in said company the title in fee to said land and premises.

Sec. 12. If any lands taken as aforesaid are owned and held by an infant, insane person, or person subject to any legal disability, the court shall appoint a guardian for such person, who shall give bond with sufficient securities for the proper and faithful execution of his trust, and who shall appear and represent the party under disability, as aforesaid, and thereupon the same proceedings may be had and with the same effect as above described; nor shall the title of said company to the lands and premises taken by virtue of this act be impaired by reason of any failure by the said guardian to discharge his trust faithfully.

Sec. 13. That said company shall have the power to borrow money, issue bonds and other bills of credit, with or without mortgage; provided, it is done in conformity to a vote of two-thirds of the directors, at an annual or called meeting, and if at the latter, after thirty days notice there-

of; and generally this company shall have all power requisite to carry into successful effect, its herein declared objects.

Sec. 14. That the first meeting of this company shall be called at the town of Wortham, whenever one hundred thousand dollars of the capital stock shall have been subscribed by giving thirty days public notice, in at least two newspapers published in the counties through which this railway shall pass, and the stockholders shall then proceed to elect directors, who shall hold office until the annual election which shall take place at the company's principal office on the third Tuesday in January of each year; a majority of stock shall be represented to constitute a quorum, and in absence of a quorum the meeting shall be adjourned by those present for an additional thirty days, and an election on that day shall be valid; directors elected under the provisions hereof, shall hold office for one year, or until their successors shall be chosen and are qualified; no person shall be a director who is not the owner of at least ten shares of the stock of this company.

Sec. 15. That this charter shall remain in force for a period of sixty years from the date of completion of said railway, and this incorporation shall be subject to all laws that are now in force, or that may hereafter be enacted regulating railroads and railroad companies.

Sec. 16. That the said State of Texas hereby donates and grants to said company sixteen sections of land, of six hundred and forty acres each, for each and every mile of road completed and put in good substantial running order on said line, as hereinafter provided; that whenever, and as often as the company shall construct and put in good substantial running order, a section of ten miles or more of said road, they may inform the Governor of the fact, and it shall be his duty to inform [appoint] some skillful engineer to examine said section of road, and if upon the report of such engineer, made to the Commissioner of the General Land Office, under oath, it shall appear that said road has been constructed and put in good substantial running order, and in accordance with this act and the laws of this State, thereupon it shall be the duty of the Commissioner of the General Land Office to issue to said company sixteen land certificates, of six hundred and forty acres each, for each mile of such completed road; that all land certificates issued to such company under the provisions of this act

may be located upon any of the unappropriated public domain of this State, and shall be surveyed in alternate sections, that is to say, said company shall cause to be surveyed for each certificate so issued, two sections of land of six hundred and forty acres each, adjoining, and shall return to the General Land Office the field notes and maps of the same; and the Commissioner of the General Land Office shall thereupon number said sections so surveyed, and shall cause to be issued to said company patents to the odd sections, the even sections being reserved to the school fund; provided, that in no case shall the State be liable for deficiency of vacant domain.

Sec. 17. That the lands herein donated to said company shall be alienated as follows: one-fourth thereof in eight years, from and after the passage of this act; one-fourth in twelve years; one-fourth in sixteen years; and one-fourth in twenty years; so that the whole of the land herein donated to said company, shall pass from the possession of said company, and that said lands shall be sold to no other corporation nor to any person owning stock in this company, nor to any person, firm or company, in trust for said company, and on failure to comply with, or any violation of the provisions of this act, said company shall forfeit all rights to land secured by this act, not alienated as required by law.

Sec. 18. That this railway shall be constructed of a width of gauge of not less than three feet; said railway shall be substantially built and fully equipped for passenger travel and for carrying freight.

Sec. 19. That this company shall not have the right to rent, lease or consolidate with any parallel or competing railroad in this State, and any violation of the provisions of this section shall work a forfeiture of all rights secured by this act.

Sec. 20. The organization of this company shall be perfected on the fifth day of July, A. D. 1875, or within three months thereafter, and twenty miles shall be completed within two years, and twenty miles each year thereafter, or this charter shall be forfeited as to that portion not built.

Sec. 21. That said company is authorized to solicit and receive donations in lands, money, bonds and other property, either from individuals, counties, or other corporations, and under any laws now in force or hereafter passed,

they are authorized to apply, if deemed by them necessary, to the counties of the State situated on the route of said railway, for aid by gift or loan in money or bonds or by subscription to the capital stock of said company.

Sec. 22. That the said company be authorized to begin the work of constructing its road at either terminus of its line or at any point where it may cross the line of any other railroad.

Sec. 23. That this act shall take effect and be in force from and after its passage.

Approved March 4th, 1875.

CHAPTER XXXVIII.

An Act to legalize the work as Notary Public of R. W. Walton, J. C. Bartlett and J. C. Baird, of Navarro county.

Section 1. Be it enacted by the Legislature of the State of Texas, That the work done in accordance with law of the following named parties, as notary public, to-wit: R. W. Walton, commissioned January 15, 1873, as notary public, and qualified January 29, 1873; J. C. Bartlett, appointed and commissioned March 12, 1873, qualified January 6, 1874; J. C. Baird, appointed July 1, 1873, and qualified July 24, 1873, for the county of Navarro, be and the same is hereby legalized, and to have and maintain the full force and legal effect of acts of notaries public, from the date of their qualification to the present time.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 4th, 1875.

CHAPTER XXXIX.

An Act to incorporate the Galveston Cotton Exchange.

Section 1. Be it enacted by the Legislature of the State of Texas, That the members of the association known as the Galveston Cotton Exchange, and all other persons who may hereafter become associated with them

under the provisions of this act, are hereby created a body corporate by the name of the Galveston Cotton Exchange, with perpetual succession and power to use a common seal and alter the same at pleasure, to sue and be sued, to take and hold by grant, purchase and devise, subject to the provisions of law relating to devises and bequests by last will and testament, real and personal property to an amount not exceeding three hundred thousand dollars, for the purpose of such association, and to sell, convey, lease and mortgage the same or any part thereof.

Sec. 2. The property, affairs, business and concerns of the corporation hereby created, shall be managed by a president, vice-president, treasurer and seven directors, who together shall constitute a board of directors to be elected annually, at such time and place as may be provided by the by-laws; and the present officers and directors of the said association as now constituted, shall be the officers and directors of the said corporation until their present term of office shall expire, when they shall be succeeded by those elected according to provisions in the by-laws; all vacancies which may occur in said board by death, resignation or otherwise, shall be filled by the said board, a majority of the members of such board shall constitute a quorum for the transaction of business.

Sec. 3. The purposes of said corporation, shall be to provide, regulate and maintain a suitable building, room or rooms for a cotton exchange, in the city of Galveston, to adjust controversies between its members, to establish just and equitable principles in the trade, to maintain uniformity in its rules, regulations and usages, to adopt standards of classification, to acquire, preserve and disseminate useful information connected with the cotton interest throughout all markets, to decrease the local risks attendant upon the business, and generally to promote the cotton trade of the city of Galveston, increase its amount and augment the facilities with which it may be conducted, the said corporation shall have power to make all proper and needful by-laws, not contrary to the Constitution and laws of the State of Texas, or of the United States.

Sec. 4. The said corporation shall have power to admit new members and to expel any member, in such manner as may be provided by the by-laws.

Sec. 5. The board of directors shall annually elect by ballot five members of the association, as a committee, to

be known as, and styled the board of appeals of the Galveston Cotton Exchange, and may at any time, fill any vacancy or vacancies, that may occur therein for the remainder of the term in which the same shall happen; it shall be the duty of said board of appeals to hear and determine, any controversy which might be the subject of an action at law or in equity, (except such as involve the title to real estate or any interest therein) that may arise between the members of said association, or between such members and any person, or persons claiming by, through, or under any member of said association, when such persons, so claiming, shall voluntarily submit such controversy to said board of appeals for arbitration; that the said board of appeals, or a majority of them, shall have the powers vested in arbitrators, by the laws of this State concerning arbitrations; and their proceedings shall be conducted, and their awards enforced as prescribed by said laws; provided, however, that a majority of said board of appeals, shall be competent to hear and consider the allegations and proofs offered in such controversies, and a majority of those so hearing the same, shall be competent to render an award therein.

Sec. 6. That it shall be lawful for the members of said Galveston Cotton Exchange, to enter into a general prospective agreement in writing, to submit, for arbitration, to said board of appeals, any and all such controversies as are hereinbefore mentioned, that may arise between them, at any time thereafter, during the continuance of their respective memberships; and such general agreement so made, shall be as valid and binding, as if made under said laws concerning arbitrations, with reference to some particular controversy or dispute then pending, and shall have the same force and effect as if specially made under said laws.

Sec. 7. That this act take effect and be in force from its passage.

Approved March 4th, 1875.

CHAPTER XL.

An Act to amend "An Act to incorporate the Lake City Railway Company, and to aid the construction of the said railway," approved May 2, 1874.

Section 1. Be it enacted by the Legislature of the State of Texas, That the second section of an act to incorporate the Lake City Railway Company, and to aid in the construction of the said railway, approved May 2, 1874, be and the same is amended so as to read hereafter as follows, viz: Section 2. That said corporation is hereby invested with the authority, right and power to locate, construct and maintain a railway of such gauge as will conform to the gauge of the connected line or lines from without the State, from the City of Jefferson, in Marion county, to the east line of the State of Texas, so as to connect with any line of railway forming connection with the Mississippi river; and that said company shall construct said railway to the east line of this State within eighteen months from the time it shall effect and complete such contract with any company as will insure connection with the Mississippi river, or forfeit all rights under the charter.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 6th, 1875.

CHAPTER XLI.

An Act to incorporate the Kaufman Tap Rail Road Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That J. H. Muckleroy, J. A. Bennett, B. S. Wood, J. G. Gibbs, W. H. Pyle, G. D. Hannon, R. B. Shaw, C. C. Nash, W. B. Dashiell, Henry Erwin, and U. J. Stirman, and such others as they may associate with them, are hereby created a body politic and corporate under the name of the Kaufman Tap Rail Road Company, and by such name they may sue and be sued, make contracts, have and hold real and personal property, only such as shall be necessary for the construction and operation of their road, by grant, donation or purchase, or sell, transfer or alienate the same. Said company shall have succession for ninety-nine years, and a corporate seal.

Sec. 2. That said persons named in the first section

of this act, their associates or assigns, shall constitute the first board of directors. They shall have the right to elect a president, vice-president, secretary, treasurer, and attorney; the other officers and agents of the company shall be appointed in such manner as the said directors may ordain and establish. The said directors shall have power to make by-laws, rules and regulations for their government, so as to carry out the intent of this act, and to appoint an executive committee, and confer upon it such powers as they may see fit, not inconsistent with the laws of the State, or the United States; to provide for the future election of officers, and to fix the place for the principal office of the company, and change the same at pleasure; to provide for issuing stock and transfer of the same; to provide for issuing the bonds of the company, to mortgage and hypothecate the road bed, rolling stock and all other property of said company; to raise funds to build or equip said road.

Sec. 3. That said company shall have the right to construct, own and operate, a first-class road of the same gauge as the "Texas Pacific Rail Road," from Kaufman to a point most practicable on said "Texas Pacific Rail Road." That said company shall have the right to connect their road with the Texas and Pacific Rail Road.

Sec. 4. That said company shall have the right of way along their entire route, not to exceed two hundred feet in width over all lands of the State, and the free use of rock, timber, gravel and earth thereof, and the terms of the general laws of this State, to procure the release of the right of way from the owners of the lands along the route; and shall have the right to construct and operate a telegraph line along their entire route, and to build and construct bridges across all streams along their line.

Sec. 5. That this company shall receive sixteen sections of land for every mile of said road that shall be constructed and put in good running order; provided, the said company shall alienate the lands so received, as follows: one-fourth in eight years, one-fourth in twelve years, one-fourth in sixteen years, and the remainder in twenty years, after the issuance of the certificates; provided further, that the State shall not be liable for any deficiency in the public domain.

Sec. 6. That the capital stock of said company shall be two hundred thousand dollars, (\$200,000), with the

privilege of increasing to any sum not to exceed six hundred thousand dollars, (\$600,000), divided into shares of one hundred dollars (\$100) each.

Sec. 7. That said company shall have the whole line completed in three years from and after the passage of this act.

Approved March 6th, 1875.

CHAPTER XLII.

An Act amendatory of and supplementary to "An Act to organize and incorporate the East Line and Red River Railroad Company," approved March 22, 1871, and of the acts passed thereafter in relation to said company.

Section 1. Be it enacted by the Legislature of the State of Texas, That the East Line and Red River Railroad Company is hereby authorized to construct, own and maintain a line of railway, with either a single or double track of such gauge as said company may adopt, not less than three feet, as well as a telegraph line from the city of Jefferson, in the county of Marion, to the town of Greenville in Hunt county, via the points named in the original charter, thence in a westerly or northwesterly direction to the western limits of the State; and that the time allowed by law for the construction of said line of railway and any section or part thereof, is hereby extended and enlarged for the period of one year in addition to the time now prescribed by law; provided, that the citizens of the county of Titus, be and they are hereby forever released from all obligations, to pay to said company a subsidy of two hundred thousand dollars, or any part thereof, which was voted to said company, by the citizens of the said county of Titus, in the month of July, 1872; provided, further, that said company may, if it is deemed best for the interest of the company, construct their road upon the most practicable route, between Jefferson and Sulphur Springs, in Hopkins county.

Sec. 2. That the board of directors of said company is hereby authorized, upon a vote of two-thirds of the stock of said company, (each share being entitled to one vote), to mortgage said railroad, its lands, revenues and franchises, jointly or separately, to raise money to con-

struct or maintain the same, upon such terms and conditions as said company may deem best; and to issue bonds thereon, secured by such mortgage; and to do and perform any and all such acts and things as an individual might lawfully do, to forward and promote the construction and maintenance of the said road.

Sec. 3. That all such parts of the said act of incorporation of the said company, and the acts amendatory of and supplementary to the same, as may be inconsistent with this act, are hereby repealed; and that this act be in force from and after its passage.

Approved March 6th, 1875.

CHAPTER XLIII.

An Act concerning litigation with the railroad company which is now known as the "New Orleans, Mobile and Texas Railroad Company," which was chartered originally as the "Sabine and Galveston Bay Railroad and Lumber Company," and afterwards changed to the "Texas and New Orleans Railroad Company," and afterwards to the "New Orleans, Mobile and Texas Railroad Company," for the purpose of forfeiting the charter and franchise of said company for the non-use and misusage of its charter and franchise; and to collect from said company the amount due the State for loans to aid in the construction of the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Attorney General of this State be and he is hereby required, within sixty days from and after the passage of this act, to institute suit, or cause suit to be instituted by some one of the district attorneys of this State in the proper court, against the railroad company which was on the first day of September, 1856, chartered as the "Sabine and Galveston Bay Railroad and Lumber Company," and the name of which was by an act of December 24th, 1869, changed to the "Texas and New Orleans Railroad Company," and again by an act of April 15th, 1873, changed to the "New Orleans, Mobile and Texas Railroad Company," for the purpose of forfeiting and annulling its charter and franchise for non-usure and mis-usure, and for the purpose of collecting the amount due the State of Texas from said road for loans to aid in the construction of said road, and also to bring any other suit

or suits necessary to protect the rights of the State against said company.

Sec. 2. That in case said suit or suits should be brought by a district attorney of this State, still the Attorney General is hereby required to give said litigation his personal attention; provided, nevertheless, sections one and two of this act—or any general law to the contrary notwithstanding—that if within said sixty days from the passage of this act, the said “New Orleans, Mobile and Texas Railroad Company,” or the owners of said road, shall file in the office of the Secretary of State an assurance that they intend in good faith to re-build and equip said road as herein required, then said suit shall be delayed three months more; provided further, that if at the expiration of said three months, the said company shall commence the work of repairing and re-building their road-bed, grade and bridges, on their chartered line from Houston to the Sabine river, then the Governor being satisfied from the report of engineers or otherwise that the company have begun the work, and being so satisfied from time to time that said work is progressing without unnecessary delay, said company are to have until the first day of May, 1876, within which to complete their road-bed, grade and bridges, on the whole line from Houston to the Sabine river, and no suit shall be brought during said time, unless said company shall fail to continue the work of re-building and repairing. However, that if after beginning work, the company proceed without unnecessary delay, the Governor is vested with the discretion of extending the period for the completion of said work a short period after the first of May, 1876, upon the satisfactory report, or showing of the unavoidable cause or causes necessitating such delay or delays. That if by said first of May, 1876, the company shall have completed their road-bed, grade and bridges, and shall have said road ready for the cross-ties and iron, then the said company are to have such additional time as may be agreed on by and between the Governor and said company, not later than the first of December, 1876, in which to lay down the cross-ties and iron and to equip and begin operating said road. If by the first of May, 1876, said company shall have completed their road-bed, grade and bridges as above provided, and shall have at the expiration of the time thereafter agreed upon by said company and the Governor, completed, equipped and begun operating said road

its entire length from the city of Houston to the Sabine river, then no suit shall be instituted under this act or any general law by the State of Texas, for any acts or omissions heretofore done, and the company shall be relieved from the effects of any non-usure or mis-usure of their charter and franchise.

Sec. 3. That, for the purpose of ascertaining that said company are in good faith complying with section second of this act, it is hereby made the duty of the Governor, at the expiration of each of the periods of time mentioned in said second section, to appoint some skillful engineer to inspect said road—as other roads are inspected, and as this road was to have been inspected under its charter—upon whose report of receiving or rejecting, the Attorney General shall act.

Sec. 4. That this act take effect and be in force from and after its passage.

Approved March 8th, 1875.

CHAPTER XLIV.

An Act to incorporate the Red River and Rio Grande Railway Company, and to authorize the building of branches thereto, and to grant lands to aid in the construction thereof.

Section 1. Be it enacted by the Legislature of the State of Texas, That a company is hereby incorporated, called the Red River and Rio Grande Railway Company, the capital stock of which shall be five millions of dollars, but may be increased to any amount not exceeding ten millions of dollars, by a vote of two-thirds of the stockholders at a meeting called for that purpose; said capital stock shall be divided into shares of one hundred dollars each, the holders of which, their successors and assigns, shall constitute a body politic and corporate, and by the name aforesaid shall have continued succession for a period of ninety years; may sue and be sued, plead and be impleaded, defend and be defended against, shall have use of a common seal, and shall be able in law and equity to make contracts, necessary to carry on its business, shall have power to receive donations of real estate or other property, may take, hold, use, possess and enjoy the fee

simple or other title to any real estate, necessary to the use and management of said railway, and may sell and mortgage the same, and shall have such other powers as may be deemed necessary to carry on its business, not inconsistent with the provisions of this act; may make by-laws, rules and regulations necessary and proper for carrying into effect the objects of the company, not inconsistent with the provisions of this act.

Sec. 2. That William Bond, R. S. Stevens, Francis Skiddy, A. D. Jaynes, Shepard Gandy, B. J. Waters, John Schullon, August Belmont and Theo. Noel, or a majority of them, shall constitute the first board of directors under this act, and shall hold their offices until their successors are elected and qualified. They shall meet within sixty days after the passage of this act, and organize as a board of directors, by electing a president, vice-president, secretary and treasurer, and such other officers as to them shall be deemed necessary to carry on the business of the company, who shall hold their offices until the next election of directors and until their successors are elected and qualified.

Sec. 3. So soon as five thousand shares shall be subscribed to the capital stock of said company, the directors aforesaid, or a majority thereof, shall cause an election to be held for seven directors, at such time and place as they may designate; notice of such election being first given at least twenty days in two newspapers published on the line of said road. The directors elected at said election shall hold their offices for the period of one year, and an election for seven directors shall be held on the same day every year thereafter, unless otherwise provided by the by-laws of said company. At the annual election for directors each stockholder shall be entitled to one vote for every share of stock held by him or her, and may vote by written proxy. All elections shall be by ballot, and governed by such rules and regulations as may be prescribed by the by-laws of said company; after each election for directors, the directors declared elected shall organize and proceed to elect from their number a president and vice-president, and shall elect some suitable person as secretary and treasurer, and such other officers as to them may be deemed necessary to carry on the business of the company; the board of directors shall also have power to appoint an executive commit-

tee from their own number, and confer on it such powers as they may deem proper, not inconsistent with the provisions of this act.

Sec. 4. Said company, its successors and assigns, are hereby authorized and empowered to construct, own and equip and operate a line of railroad and branches, with either single or double track, as said board of directors may adopt, and of such gauge not less than three feet as said board of directors may deem best, together with a line of telegraph along its road and branches; commencing at the terminus of the Missouri, Kansas and Texas Railroad, in this State, thence in a southwest direction to Sherman; provided, however, that said town of Sherman shall cause to be granted or donated to said railway company the right of way free of cost and expense to said company for the distance of four miles from Sherman in the direction of Denison, and four miles from Sherman in the direction of Whitesboro, and also to cause to be granted or donated free of all cost and expense to said company, fifteen acres of land for passenger and freight depots and side tracks within or near the limits of said town of Sherman, where said company shall designate for the location of its depots. Said grants or donation and right of way to be secured to said company by said town of Sherman within four months after said company shall have filed with the mayor of said town of Sherman a map or profile of its road through Grayson county, with the place designated for its depots at Sherman, and if said grants or donations and right of way is not secured to said company within the time aforesaid, then said company may locate its road on the most practicable route from Denison to Whitesboro, thence to the town of Whitesboro in Grayson county, thence to Gainesville, Fort Worth, Cleburne, in Johnson county, Meridian, and San Saba, to Eagle Pass on the Rio Grande. With a branch commencing on its main line at Meridian, thence south to Belton, thence to Georgetown, in Williamson county, and the company shall establish and continue a passenger and freight depot within one-half mile of the courthouse in said towns; provided, the said towns shall furnish free of charge the necessary grounds for depot purposes; thence to the city of Austin; also, with a branch commencing on its main line at Gainesville, thence west to Montague, in Montague county, and through Clay county, Archer county, and thence in a northwesterly

direction to where the same will intersect the Atlantic and Pacific Railroad.

Sec. 5. Said company shall have power, from time to time, to borrow such sums of money as may be necessary for completing and equi[p]ping its road and branches; and may issue and dispose of its bonds in such sums as may be deemed best, to bear interest at such rate not exceeding ten per cent. per annum, payable when and where the company may direct, and to run for such period of time as the company may determine; and to secure the payment of the interest and principal of any bonds so issued, said company may mortgage its road-bed and all the corporate property of the company of whatsoever kind, including its franchises.

Sec. 6. The board of directors shall make calls for the payment of the capital stock subscribed at such times, and in such manner, as it may deem best, and if any stockholder shall fail to pay such calls within fifteen days after being notified, the company may sue and recover the same with interest, and if not paid or collected, his or her stock with all payments made thereon, shall be declared forfeited to the company by order of the board of directors. No delinquent stockholder shall vote at any election held by said company.

Sec. 7. At every annual meeting of the company, the board of directors shall make to the stockholders a full report and exhibit of the affairs and business of the company. The books of the company shall be open at all times to the inspection of any stockholder.

Sec. 8. Said company is hereby granted the right of way through the public lands of the State along the line of its road and branches; and power is hereby conferred upon said company to use stone, earth and other material, for the construction of its road and branches from the public lands of the State. The right of way over the public lands hereby granted, shall not exceed two hundred feet in width. Said company is also granted all lands necessary for section houses, work-shops, switches and side tracks, turntable and water tanks from the public lands of the State. Said company shall have the power to cross all public roads and streets, and when the same shall pass through the lands of private persons, the right of way is hereby secured in accordance with the general laws of the State now in force. Said company is hereby

authorized, and the right is hereby granted it, to cross or connect with any other railroad, to join stock or consolidate with any other railway company running in the same direction.

Sec. 9. Said company shall locate its principal offices in this State, at any point along the line of its road as to them may deem best, but this shall not prevent said company from establishing a branch office at such other place as to them may deem best for the transaction of its business.

Sec. 10. Said company shall commence work on its road within six months after the election of directors, as provided for in section three of this act, and shall have completed and put in running order at least fifty miles, within eighteen months thereafter, and at least twenty-five miles of road completed and in running order every year thereafter until said road is completed; and a failure to comply with the provisions of this section, shall work a forfeiture of all the rights, privileges, grants and franchises granted by this act, except as to that portion of road built and completed.

Sec. 11. Said company shall be entitled to receive sixteen sections of land, containing six hundred and forty acres each, for each and every mile of road on its main line and branches completed, and whenever the Governor shall be informed by the president of said company that a section of ten miles of road shall have been completed, he shall at once appoint some competent person to inspect the same, who shall, without delay, make an examination of said road or branches, and report to the Governor whether or not the said ten miles thereof has been completed in accordance with the terms of this act; and if said report shall be in the affirmative, the Governor shall immediately notify the Commissioner of the General Land Office, whose duty it shall be to immediately issue and deliver to said company sixteen certificates of land of six hundred and forty acres each, for each and every mile of road completed, and so on for every additional ten miles thereof as the same may be completed, which certificates may be located, surveyed and patented, according to the railroad law on the principle of alternate sections; provided, that each section of ten miles shall be inspected in like manner as provided in this section for the first ten miles; provided, that the

State of Texas shall not be liable for any deficiency of the public domain upon which to locate said certificates.

Sec. 12. That the lands acquired by said railroad company under this act, shall by it be alienated as follows: one-fourth part in eight years; one-fourth part thereof in twelve years; one fourth part thereof in sixteen years; one-fourth part thereof in twenty years, after the issuance of the certificates, or within said periods; and the same shall not be sold or conveyed by said company to any railroad or other incorporated company, except so far as may be necessary for its proper uses and the conducting of its business, or to any firm or company of which any officer or stockholder of said company is a member; provided, that nothing in this section shall be so construed as to prevent said company from mortgaging said lands, together with its road-bed, rolling stock, and other property, including its franchises, for the purpose of raising money to build, equip and complete its road.

Sec. 13. The State reserves the right (in consideration of the lands and franchises herein granted) to regulate by general law applicable to all the roads in the State, the rates to be charged for freight and passengers.

Sec. 14. As soon as the board of directors, provided for in section two of this act, shall have organized, they shall signify their acceptance of the provisions of this act in writing, which acceptance shall be filed with the Secretary of State; and if such acceptance is not made and filed as herein provided, this act shall be null and void and of no effect.

Sec. 15. This act shall take effect and be in force from and after its passage.

Approved March 9th, 1875.

CHAPTER XLV.

¹
An Act supplementary to an act entitled "An Act to incorporate the Red River and Rio Grande Railway company, and to authorize the building of branches thereto, and to grant lands to aid in the construction thereof."

Section 1. Be it enacted by the Legislature of the State of Texas, That the five thousand shares to be subscribed to the capital stock of said company as provided for in section three of the act to which this is supplement-

tary, shall be subscribed within twelve months after the passage of this act, when an election for directors shall take place as provided for in said section three.

Sec. 2. That said company shall establish and maintain a passenger and freight depot within one-half mile of the business center of the town of Whitesboro; provided, said town shall donate to said company not less than fifteen acres of land for depot purposes; and when said company shall run its road within five miles of any county site, not mentioned in said act, then said company shall be required to build its road to said county site; provided, said county site shall donate to said company fifteen acres of land for depot purposes, and the right of way from the point of divergence from its main route to said county site, and the right of way from said county site to the point where the same will again intersect its main route.

Sec. 3. The Red River and Rio Grande Railroad Company shall build and equip its line of road through the city of Fredericksburg, in the county of Gillespie, and establish and maintain depots for freight and passengers within a half mile of the courthouse of said county; provided, that the said county of Gillespie shall secure to said company the right of way through the said city of Fredericksburg and donate to said company sufficient land for depot purposes not exceeding ten acres.

Sec. 4. That in the event said railroad company joins stock or consolidate with any other railroad in the State running in the same direction, made in accordance with the provisions of section eight (8) of the original charter of said company, said consolidation shall not entitle said company or companies, to more than one subsidy, or more than sixteen sections of land to the mile of the road so consolidated.

Sec. 5. That the road of this company shall commence at the terminus of the railway of the Missouri, Kansas and Texas Company, at the city of Denison, and shall be built thence in as direct a line to the town of Whitesboro, in the county of Grayson, as will be practicable, and thence as specified in the original charter of the company; and all laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 6. That this act take effect and be in force from and after its passage.

Approved March 9th, 1875.

CHAPTER XLVI.

An Act to prohibit the sale of intoxicating or spirituous liquors within two miles of certain places, therein named.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be unlawful for any person or persons to dispose of any intoxicating or spirituous liquors, by sale or otherwise, within two miles of the Atlanta Academy, in Cass county; Pond Springs School-house, in Williamson county; Round Mountain, in Blanco county; Sutherland Springs, in Wilson county; Lisbon Church, in Dallas county; Given's Academy, in Milam county; Springtown, Parker county; Parker's School-house, Lamar county; Pin Oak Seminary, Navarro county; Grand Saline, Van Zandt county; Rockpoint School-house, Van Zandt county; Webberville Masonic Institute, Travis county; Travis Institute, Travis county; Parson's Female Seminary on Onion creek, in Travis county; Live Oak Academy, Travis county; Pleasant Hill Male and Female School, Travis county; Mount Vernon Church, Robertson county; Lagarto School-house, Live Oak county; Reidelville, Karnes county; Live Oak Academy, Hays county; Blanco Chapel, Hays county; Woodland College, Freestone county; Rice Male and Female School, Navarro county; Cotchines Mill, Lamar county; Summerfield High School, Gregg county; Brandon, Hill county; Comanche Springs, McLennan county.

Sec. 2. That any person or persons violating the provisions of this act, shall, upon conviction thereof, in any court of competent jurisdiction, be fined in any sum not less than ten, nor more than one hundred dollars for each, and every offence.

Sec. 3. That this act take effect and be in force from and after the first day of May, A. D. eighteen hundred and seventy-five.

Approved March 9th, 1875.

CHAPTER XLVII.

An Act to amend section eight of an act entitled "An Act to authorize the county court of Lamar county to contract for the building of a court house and jail in said county; and to issue and sell the bonds of the county for that purpose," passed April 28, 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That section eight of the above recited act be so amended as to hereafter read as follows: "Section 8. The coupons on the bonds due, or falling due, shall be received for every class of taxes levied and collected under this act, of which this is amendatory; and it shall be the duty of the county court to cause the interest and two per cent. sinking fund to be tendered at the place or places of payment, and that the said two per cent. sinking fund, together with any other surplus funds that may be on hand, at any time, and belonging to the county, and not otherwise appropriated, shall be tendered to the owners or holders of said bonds in payment of the principal, or so much thereof, as such funds may, from time to time, be sufficient to pay, in the following order, (that is to say): to the first bond issued, the amount thereof shall first be tendered, and then to the second bond, and so on in the order in which they are issued, giving preference to the first in order according to number; provided, that if any holder of said bonds should refuse to receive payments on the principal of said bonds before maturity, and said sinking fund or other county funds shall accumulate, then the county court shall be required to pay off according to priority of numbers any outstanding court house or jail bonds, with such fund or funds, and have such bond or bonds, so paid off, cancelled and destroyed." All laws or parts of laws, in conflict with the provisions hereof, be and the same are hereby repealed.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 9th, 1875.

CHAPTER XLVIII.

An Act to compensate and reward deputy sheriff J. T. Morris, of Collin county, for capturing the stage robber, J. C. Reed.

Whereas, An Act was passed by the Legislature of the State of Texas, approved April 8, 1874, authorizing the Governor of the State of Texas, to offer a reward not exceeding three thousand dollars, for the apprehension of three highway robbers, who robbed the passengers and the United States mail on the San Antonio and Austin stage, on the 7th of April, 1874, and

Whereas, in pursuance of the above act of the Legislature, the Governor of the State of Texas, did offer a reward of three thousand dollars for the capture and conviction of the said stage robbers; and

Whereas, it appears that one John T. Morris, a citizen of Collin county, in the discharge of his duties as deputy sheriff did pursue and kill one J. C. Reed, in endeavoring to arrest said Reed in Lamar county, Texas, who is proved to be one of the robbers of the said stage on the San Antonio and Austin stage line; now therefore:

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of one thousand dollars be and the same is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the payment of the said one thousand dollars to the said J. T. Morris, for his services as aforesaid. That the Comptroller of Public Accounts, be and is hereby required to draw his warrant upon the Treasurer for said sum in favor of J. T. Morris, aforesaid.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 9th, 1875.

CHAPTER XLIX.

An Act for the relief of the International Railroad Company, now consolidated with the Houston and Great Northern Railroad Company, under the name of the International and Great Northern Railroad Company.

Whereas, On the fifth day of August, A. D. 1870, the Legislature of the State of Texas passed an act entitled

"An Act to incorporate the International Railroad Company, and to provide for the aid of the State of Texas in constructing the same;" and

Whereas, By the 9th section of said act, it is claimed the State of Texas obligated itself to donate and grant to the said company the bonds of the State of Texas to the extent and amount of ten thousand dollars per mile for each mile of railroad constructed under said charter; and

Whereas, The said railroad company has already constructed about two hundred miles of railroad, in accordance with the provisions of its charter; and

Whereas, The said The International Railroad Company has been consolidated with the Houston and Great Northern Railroad Company under the name of the International & Great Northern Railroad Company; and

Whereas, Questions have arisen between the State of Texas and the said Company as to the legal liability of the State to deliver said bonds to the said Company; and

Whereas, It is important both to the State and said Company that these questions should be definitely settled by a just and reasonable compromise; therefore, for that purpose,

Section 1. Be it enacted by the Legislature of the State of Texas, That in full settlement and satisfaction of all claims of the said The International Railroad Company, and of the said The International and Great Northern Railroad Company against the State, for bonds under the provisions of the 9th section of the aforesaid Act, of August 5, A. D. 1870; there is hereby granted to the said last named company, its successors and assigns, twenty sections, of six hundred and forty acres each, of the unappropriated public lands of the State, for each mile of railroad which has been and which may hereafter be constructed pursuant to the authority conferred by the said act of August 5, A. D. 1870. And the said company, its successors and assigns, shall have the right to locate the said lands as headright certificates were formerly located, without being under obligation to locate alternate sections for the State; and the said lands and the certificates issued therefor, are hereby exempted and released from all State, County, Town, City, Municipal, and other taxes for the period of twenty-five years from the date of the respective certificates issued therefor. And the said railroad company and its successors and its and their capital stock,

rights, franchises, railroads constructed and to be constructed, pursuant to the said Act of August 5, A. D. 1870, and this act, rolling stock, and all other property which now is, or hereafter may be owned or possessed by said company or its successors in virtue of the said Act of August 5, A. D. 1870, is hereby exempted and released from all State, County, Town, City, Municipal and other taxes, for a period of twenty-five years, from the 5th day of August, A. D. 1875, except county and municipal taxes in such counties, cities and towns as have donated their bonds to aid in the construction of said railroad; but this exception shall not remain in force in favor of any county, city or town, which having thus donated bonds, shall make default in the payment of either the interest or principal thereof; provided, that this exemption from taxation shall not be held or construed to include or apply to the lands or railroads, which at the time of the consolidation hereinbefore recited belonged to the Houston and Great Northern Railroad Company, or which has since been, or hereafter may be constructed or acquired under its charter; provided, nothing in this act contained shall be so construed as to exempt from taxation any lands to which the Company may be entitled by virtue of the charter of the Great Northern Railroad Company, or the franchise, road bed, rolling stock, or any property acquired, or hereafter to be acquired by virtue of the charter of the Great Northern Railroad Company; and the lands granted by this act shall not be sold to any other corporation or to any person in trust, for the use or benefit of said Company; and provided, further, that the State shall not be liable for any deficiency of the unappropriated public domain on which to locate said land certificates, nor shall any of such unlocated certificates ever constitute a claim against the State.

Sec. 2. That the Commissioner of the General Land Office is hereby authorized to issue to the said The International and Great Northern Railroad Company certificates for twenty sections of six hundred and forty acres each of the public lands for each mile of railroad which has heretofore been constructed pursuant to the aforesaid act of August 5, A. D. 1870, as soon as the said Commissioner shall be notified by the Governor of the State that the stockholders of said company have accepted the provisions of this act, which certificates shall be delivered by the said

Commissioner to the President of said company, or to such other person as may be by the President or the company authorized to receive the same.

Sec. 3. Whenever the said The International and Great Northern Railroad Company shall hereafter construct ten consecutive miles of the Railroad, authorized by the said act of August 5, A. D. 1870, the said company may notify the Governor of the State of the fact, whereupon it shall be the duty of the Governor to direct the State engineer, if there be one, (and if not, some other competent engineer), to inspect the said section of road, and if said inspector shall report under oath, that the said section of road has been completed in a substantial manner, and in accordance with the requirements of the general railroad law of the State then in force, the Governor shall immediately communicate these facts to the Commissioner of the General Land Office, whose duty it shall be to issue and deliver to said Company certificates for twenty sections of six hundred and forty acres each, of the public land, for each mile of the section of road so completed, and so on from time to time as fast as sections of ten miles are completed as aforesaid.

Sec. 4. That if said company shall fail to complete the construction of said railroad from the city of Jefferson to the terminus of said railroad on the Rio Grande, at the rate of at least forty miles each year, or of eighty miles every two years, counting from the first day of July, 1875, they shall forfeit all right to the lands by this act granted upon that portion of said railroad which they thus fail to construct.

Sec. 5. That the said company shall alienate one-half of the lands granted by this act within fifteen years, and the other half within twenty years, from the respective dates of the certificates issued therefor, excepting such portion of said lands as the said company may require for railroad purposes.

Sec. 6. That said company shall establish and maintain a depot for business on the line of its road within one and one-fourth miles of the present site of the courthouse, in the town of San Marcos, and also establish and maintain a depot as aforesaid, within one and one-fourth miles of the present site of the courthouse, in the town of New Braunfels; provided, that the western terminus of said road be fixed within one mile of the courthouse of the city of Laredo, on the Rio Grande river; provided, suitable

grounds for depots and side tracks not exceeding twenty acres at each of said stations, to be laid off as designated by said company, shall be furnished free of cost to said company, and the right-of-way for said railroad, not exceeding one hundred and fifty feet in width, through said towns shall be donated to said company.

Sec. 7. That if a majority, in amount, of all the stock holders of the said The International and Great Northern Railroad Company shall in person or by proxy, at a meeting of the said stockholders held for that purpose, vote in favor of accepting the provisions of this act, and a certificate certifying that fact under the common seal of said company attested by its secretary, shall be filed in the office of the Secretary of State within forty-five days after the approval of this act by the Governor of the State, this act shall thereupon be and become obligatory upon said company and its successors, and, its provisions being complied with by the State, it shall be and constitute a full, final and conclusive settlement of all the claims and demands of said company against the State, for bonds under the 9th section of the said act of August 5, A. D. 1870, and this act shall also be held to constitute an irrevocable contract and agreement between the State and the said company, its successors and assigns.

Sec. 8. That the act entitled "An act to grant lands to the International Railroad Company, in lieu of bonds, on a portion of its line of road," approved May 1, A. D. 1874, and such parts of the said act of August 5, A. D. 1870, entitled "An act to incorporate the International Railroad Company, and to provide for the aid of the State of Texas in constructing the same," and all other laws and parts of laws inconsistent with the provisions of this act, are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its passage.

Approved March 10th, 1875.

CHAPTER L.

An Act to legalize and validate certain bonds issued by the city of Galveston, for the purpose of building fire engine houses.

Section 1. Be it enacted by the Legislature of the State of Texas, That the bonds of the city of Galves-

ton, to the extent of twenty-five thousand dollars issued by the city council of said city, to build fire engine houses and lots on which to erect the same, under and by virtue of the provisions of an ordinance approved January 19th, A. D. 1875, and entitled "An Ordinance to provide for the issuance and sale of the bonds of the city of Galveston to the extent of fifteen thousand dollars for the purpose of building fire engine houses," and an ordinance to provide for the issuance of city bonds to the amount of ten thousand dollars, for the purchase of lots and the erection of engine houses thereon, and to provide for the payment of the principal and interest thereof, approved October 8, A. D. 1872, be and the same are hereby legalized and validated, and declared to be subsisting and legal obligations against said city according to the tenor and effect thereof.

Sec. 2. That this act shall take effect and be in force from and after its passage.

Approved March 10th, 1875.

CHAPTER LI.

An Act to incorporate the San Antonio and Fredericksburg Narrow Gauge Railway Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That William Wahrmond, Emile Wahrmond, Charles Nemitz, J. G. O'Grady, John F. Steudebach, Wm. Kuhfuss, A. W. Barr, H. G. Froebel, B. F. Dane, George S. Deats, Russell C. Norton, James E. Deutz and Martin Muench, be and are hereby appointed commissioners, to open books and receive subscriptions, to the capital stock of a corporation, hereby created, to be styled the "San Antonio and Fredericksburg Narrow Gauge Railway Company."

Sec. 2. That a majority of the said commissioners shall constitute a board for the transaction of business, and shall hold meetings from time to time, until directors shall be elected as hereinafter provided.

Sec. 3. That, unless otherwise provided by the commissioners or directors, five per centum of the stock subscribed to the capital of this company shall be paid in, at the time of subscription.

Sec. 4. That the subscribers to the capital stock of this company, are hereby created a body corporate and politic, under the name and style of the "San Antonio and Fredericksburg Narrow Gauge Railway Company," with capacity to sue and be sued; to plead and be impleaded; to have succession and a common seal; to make and enforce by-laws for its government; to grant and receive; to hold and convey real estate; and generally to do and perform all acts and things necessary and proper for the maintenance of its rights, under this act, and not unlawful.

Sec. 5. The capital stock of this company shall not exceed two millions of dollars, to be divided into shares of one hundred dollars each; each share to entitle its holder to one vote in all meetings or elections of the stockholders; and a majority of the stock shall govern except in cases otherwise specially provided for. The said shares of stock to be deemed personal property, transferable only on the books of the company.

Sec. 6. The management and control of said corporation and its affairs, shall be vested in a board of not less than seven, nor more than nine directors, to be chosen by the stockholders, at an annual meeting, the first of which shall be held for permanent organization at such time and place as shall be fixed upon by the commissioners appointed in section one; after one hundred thousand dollars have been subscribed and the per centum paid in, and after thirty days publication in some newspaper, published in the city of San Antonio; and the organization of said company shall be completed within ten months after the passage of this act.

Sec. 7. Said company is hereby empowered and invested with the right to construct, own, maintain, equip and operate a line of railroad and telegraph, together with all the rights and appurtenances thereto belonging, or in any way incident or appertaining; commencing at the city of San Antonio and thence following the most practicable route to the town of Fredericksburg, in Gillespie county; provided, that the said railroad and telegraph line shall be built by the town of Boerne, the county seat of Kendall county, and a depot erected and established within one-half mile of the courthouse thereof.

Sec. 8. Said company shall have the right of way over said route, and over all lands by whomsoever owned, subject to the general laws of the State governing such

cases, for a width of two hundred feet, and the usual depots, turnouts, machine shops, etc., and the usual rights of railroads, to cross other roads, streams, etc., and shall commence the construction of said road within one year after the permanent organization of said company. And shall complete and put in running order twenty miles of said road within one year thereafter, and twenty-five miles each succeeding year, until the completion of said road; and on failure to comply with the requirements of this section, this charter shall be forfeited, except upon completed road.

Sec. 9. The State of Texas hereby grants and donates to said company, out of any unlocated public lands of the State, sixteen sections of land, of six hundred and forty acres each, for each and every mile of railroad constructed and put in substantial running order by them; and whenever any section of ten miles of said road has been completed, the said company, through its president or secretary, may give notice of the same to the Governor of this State in writing, who, on receipt of such notice, shall order some skillful and competent person to examine said road, and report under oath; and if said ten miles of said road, are found to be constructed in a substantial manner, and in good running order, then the Governor shall certify the same to the Commissioner of the General Land Office, who shall thereupon issue to said company sixteen land certificates, of six hundred and forty acres each, for each and every mile of road so constructed and put in good running order; and in like manner with each and every succeeding section of ten miles of said road, until the whole has been completed. Said certificates shall be located by said company in alternate sections; that is to say, for every sixteen sections located for its own use by said company, it shall also at the same time locate other sixteen sections for the State, and return the field notes and maps of the whole thirty-two sections to the Commissioner of the General Land Office, who shall number said sections so surveyed, and issue patents to said company for the sections numbered in odd numbers, reserving the even numbers for the school fund. And said company shall alienate their lands acquired under this act, except so much thereof as may be necessary for the uses and successful operation of their said road, as follows: one-fourth in eight years; one-fourth in twelve years; one-fourth in sixteen years, and one-

fourth in twenty years, from the issuance of the certificates; provided, said company shall not alienate or sell said lands to any other corporation, nor to any person or firm in trust for said company, nor to any firm or corporation of which any officer or stockholder of said company is a member. And on failure to comply with the provisions of this section, or on violation of the same, said company shall forfeit all benefits under this charter; provided, further, that the State shall not be liable for a deficiency of public domain and such land certificates as may be issued under the provisions of this act, and are not located, because of the previous exhaustion of the public domain, shall never constitute any claim against the State.

Sec. 10. That said company shall not sell, rent or lease their road to, or consolidate the same with, any competing, parallel, or converging line of road, nor purchase, rent or lease, any such competing, parallel or converging line of road, under penalty of a forfeiture of this charter. And said company shall be subject to all general laws now in force or that may be enacted hereafter, in this State, for the regulation of railroad companies, both as to rates of freight and passage, and as to the conduct of its officers and employees.

Sec. 11. The said company are authorized to solicit and receive donations in land, money, bonds or other property, either from individuals, counties or other corporations; and under any laws now in force, or hereafter passed, they are authorized to apply, if they deem it necessary, to the counties situated along their said line of road, for aid in money, or bonds, or by subscription to the capital stock of said company.

Sec. 12. That this charter shall remain in force for the term of sixty years, and no longer.

Sec. 13. That this act take effect and be in force from and after its passage.

Approved March 10th, 1875.

CHAPTER LII.

An Act supplemental to and amendatory of "An Act to incorporate the Austin and Pacific Short Line Railroad Company."

Section 1. Be it enacted by the Legislature of the State of Texas, That section three of the act entitled "An

Act to incorporate the Austin and Pacific Short Line Railroad Company," passed May 30, 1873, and amended by act approved May 2, 1874, be and the same is hereby so amended as hereafter to read as follows, to-wit: Section 3. "Said company is hereby authorized and empowered to own, construct, maintain, equip and operate a continuous line of railroad and telegraph, together with all the rights and appurtenances thereto belonging, or in any way incident or appertaining; commencing at the city of Austin, Texas, and running across the State of Texas to some point on the Texas Pacific Railroad, between the ninety-ninth and the one hundred and seventh degree of longitude, deemed most practicable by said company after making its surveys; and may, if said company deem it advisable, make an eastern connection with said Texas Pacific Railroad by the construction of a railroad from some point on their line to tap said Texas Pacific Railroad at a point not farther east than the ninety-seventh degree of longitude. The said company is further authorized and empowered, at any time they may deem it proper to do so, to extend their said line of railroad and telegraph beyond the city of Austin, by the most practicable route, to Indianola; provided, said company shall run through the towns of Lockhart, in Caldwell county and Gonzales, in Gonzales county, and establish and maintain depots within one-half mile of the court house in said towns; provided, the aforesaid towns shall furnish free of charge, to the railroad company, the necessary grounds for depot purposes, turnouts, switches, &c., together with the right of way through said towns. They may make such connections with any other railroad or railroads as they may by agreement with them, be able to do; and when they deem that the necessities of the country and the demands of trade require the same, may construct and operate any tap or branch of their road not to exceed fifty miles in length from their main lines or branches. The capital stock of said company shall be two hundred thousand dollars, with authority to increase the same to any amount not exceeding fifteen million dollars."

Sec. 5. That this act take effect and be in force from and after its passage.

Approved March 10th, 1875.

CHAPTER LIII.

An Act to amend section four of an act entitled "An Act to incorporate the Austin and Pacific Short Line Railroad Company," passed May 30th, 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That section four of an act entitled "An Act to incorporate the Austin and Pacific Short Line Railroad Company," passed May 30th, 1873, be and the same is hereby so amended as to read hereafter as follows, to-wit: "Section 4. Said company shall have the right of of way over the State of Texas on their said line or any of its branches, and over any lands by whomsoever owned or controlled, subject to the general laws of the State governing in like cases, for a width of two hundred feet, and for the usual depots, turn-outs, switches, turntables, tanks, machine shops and other necessary improvements, and the usual right of railways to cross other roads, railroads and streams. Said company shall have the further right, if found necessary to the interest of said company, to construct their said line or any of its branches of any gauge not less than three feet, nor more than four feet eight and a half inches; and shall commence the construction of their said road at any point on said line deemed most advisable within two years from and after the passage of this amendment, and shall complete twenty miles thereof within one year thereafter, and twenty-five miles each succeeding year, and on failure to do so, said company shall forfeit all benefits under this charter, except upon completed road."

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 10th, 1875.

CHAPTER LIV.

An Act for the relief of W. H. Coleman, late sheriff of Lavaca county.

Whereas, Wm. H. Coleman, late sheriff of Lavaca county, did on the twenty-first day of March, A. D. 1873, made a full and complete settlement of the State taxes of Lavaca county, for the year 1872, with A. Bledsoe, the

Comptroller of Public Accounts of the State of Texas, as is evidenced by the statement of said settlement now on file in the office of the Comptroller of Public Accounts, and did pay to D. Graham, Treasurer of the State of Texas, the full amount of State taxes collected by him for said year in accordance with the charges against him in said settlement; and

Whereas, It is apparent that the deposit warrant, upon which said Coleman paid said taxes into the State Treasury, has been altered so as to leave a balance of four hundred dollars to the debit of said Coleman on the Comptroller's books, therefore

Section 1. Be it enacted by the Legislature of the State of Texas, That the said W. H. Coleman and the sureties upon his official bond be and they are hereby relieved of all liability to the State of Texas for said sum of four hundred dollars, and the Comptroller of Public Accounts is hereby instructed and required to credit the account of said W. H. Coleman, late sheriff as aforesaid, with said sum of four hundred dollars.

Sec. 2. That this act take effect from its passage.

Approved March 10th, 1875.

CHAPTER LV.

An Act to amend the second section of an act amendatory of and supplemental to "An Act to incorporate the Texas Timber and Prairie Railroad Company," approved August 15, A. D. 1870; passed May 24, 1873, and became a law without the approval of the Governor.

Section 1. Be it enacted by the Legislature of the State of Texas, That the second section of the act afore recited, passed May 24, A. D. 1873, shall be so amended to hereafter read as follows: Section 2. That said Texas Timber and Prairie Railroad Company shall complete and put in good running order twenty-five miles of said road on or before the first day of January, A. D. 1877, and thereafter to construct and put in good running order twenty-five miles of said road annually, till the same is completed.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 10th, 1875.

CHAPTER LVI.

An Act granting further time to the Galveston, Harrisburg and San Antonio Railway Company," and allowing it to change the route of said road.

Section 1. Be it enacted by the Legislature of the State of Texas, That the "Galveston, Harrisburg and San Antonio Railway Company," be allowed until the twenty-eighth day of January, 1876, to complete said road to the city of San Antonio; and that said company be allowed to change the line of its road so as to establish and maintain freight and passenger depots, within one mile of the court house in the town of Seguin, in Guadalupe county, instead of one-half mile as the law now requires; provided, said railway company shall establish and maintain depots in the city of San Antonio within the distance from the main Plaza, as specified and agreed upon between the county of Bexar and said railway company.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 10th, 1875.

CHAPTER LVII.

An Act to Authorize the county of Gonzales to build a bridge across Peach creek.

Section 1. Be it enacted by the Legislature of the State of Texas, That the county of Gonzales be and is hereby authorized and empowered to build a bridge across Peach creek, to be located not lower down than the Brache's crossing, nor higher up said creek than Green's crossing, in such site as may be selected under the direction of the county court of said county as suitable for said bridge.

Sec. 2. That the county court of Gonzales county be and is hereby authorized and empowered to issue the bonds of said county, for a sum not to exceed four thousand dollars, bearing interest at ten per cent. per annum from the date thereof, payable in installments, at not less than three years nor more than ten years from the date thereof, to the builder of said bridge in payment and satisfaction for the building and construction of said bridge.

Sec. 3. That said county court of Gonzales be and is

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hereby authorized and empowered to levy a tax not to exceed one-fourth of one per cent. annually, on all the taxable property within the county of Gonzales, which shall be collected at the same time and in the same manner as the State and county taxes; which tax when collected shall be appropriated by said county court, first, to the payment of the interest on the bonds of the county issued in accordance with section two of this act, and two per cent. as a sinking fund for the redemption of the principal as prescribed by the Constitution; second, to the payment and satisfaction of said bonds.

Sec. 4. That said bridge shall be constructed in a durable and substantial manner, above the highest water mark on said Peach creek, and when completed shall be free to all passengers, wagons, and vehicles of every kind whatsoever, and to all kinds of stock the owners of which may desire to cross said bridge; provided, that whenever the county court of Gonzales county may deem it expedient, it may assess against non-residents of Gonzales county such a rate of toll for passengers, wagons, carriages and other vehicles and stock, as shall be reasonable; and said rates of toll shall be fixed by the county court whenever they may determine to demand said tolls, and shall be posted at each entrance of said bridge as against non-residents of Gonzales county.

Sec. 5. The county court of Gonzales county be and are hereby constituted the supervisors of said bridge, to control and manage the building of the same, either by themselves or their appointees, and to receive the same from the hands of the builder, and control and manage the same after it is completed, in the manner which to them may seem most advantageous to the public good.

Sec. 6. That this act shall take effect and be in force after its passage.

Approved March 10th, 1875.

CHAPTER LVIII.

An Act to incorporate the Henderson and Center Railway Company, and to grant aid in the construction of the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That Thompson Camp, R. G. Burnett, A.

J. Word, Webster Flanagan, Henderson Hilton, T. J. Todd, J. W. Ballard, R. A. Young, James Soap and J. B. Bussey, their associates and successors, are hereby created a body corporate and politic under the name and title of the Henderson and Center Railway Company, and the said corporation is hereby invested with the right and power to contract and be contracted with; to sue and be sued; to plead and be impleaded; buy and sell real and personal property for the use of and connected with the construction and maintenance of said railway, and to do and perform all such acts, and to adopt such by-laws as may be necessary and proper to effect the object of this incorporation, not inconsistent with the laws and constitution of this State.

Sec. 2. That said corporation is hereby invested with the authority, right and power to locate, construct, and maintain a railway of such gauge not to exceed four feet eight and one-half inches, and not less than three feet, as they may see fit, to connect with the Henderson and Overton Branch Railway Company, at or near the town of Henderson, in Rusk county; thence on the most practicable route to the town of Center, in Shelby county, with the privilege of connecting with any railroad running in the direction of Shreveport, Louisiana, or Sabine City, in Jefferson county, Texas.

Sec. 3. That the capital stock of said company shall be not less than one hundred thousand dollars, with the privilege to increase it to one million dollars, to be divided in shares of one hundred dollars each.

Sec. 4. That the persons named in the first section of this act, or a majority of them, and their associates, are hereby appointed commissioners to open books and to receive subscriptions to the capital stock of said company; and whenever said company shall procure the subscription to said stock in the sum of one hundred thousand dollars, and have five per cent. paid thereon, said stockholders may hold an election for a president, vice president and five directors to manage and control the affairs of said company in accordance with this act, and such by-laws as the stockholders may adopt, which said officers shall hold their offices for the term of one year and until their successors are elected and qualified, unless removed as the said by-laws may direct.

Sec. 5. Before any such election for the officers of said

company, notice, by publication, shall be given for not less than two weeks in a newspaper published in the town of Henderson; and each share of stock, upon which all dues and installments have been paid, shall be entitled to one vote, either by the person of the owner or by proxy, made in writing, signed by such owner. The president and vice president shall be ex-officio directors, and said officers and a majority of the directors shall form a quorum for the transaction of business, and may appoint a secretary, treasurer and such other officers and agents as may by them [be] deemed necessary, and require from them such bond, with sureties, as they may require for the faithful discharge of their respective duties.

Sec. 6. That the right of way is hereby granted to said company to the extent of two hundred feet in width, where the same may pass over any of the public domain, including all lands necessary for stations, workshops, switches, side-tracks, turntables and water-tanks, and when the same shall pass through lands of private persons, the right of way may be secured in accordance with the provisions of the laws of this State.

Sec. 7. The principal office or domicile of said company shall be located at the town of Henderson.

Sec. 8. That said company shall complete said railroad within two years from the time they are able to effect a suitable connection with said "Henderson and Overton Branch Railway," or forfeit all rights under this charter.

Sec. 9. That said railway company shall be entitled to have and receive from the State of Texas sixteen sections of land, containing six hundred and forty acres each, for each and every mile of constructed road. And when the Governor shall be informed that a section of ten miles or more of said railroad shall have been completed, he shall at once appoint some competent person to inspect the same. The person so appointed shall without delay make an examination of the railway, and make report whether or not the same has been constructed in accordance with the terms of this charter, and if said report shall be in the affirmative, the Governor shall immediately notify the Commissioner of the General Land Office, whose duty it shall be to issue and deliver to said company on demand sixteen certificates for land, for six hundred and forty acres each, for each and every mile of railroad so completed, which certificates may be located and patented on any of the

public domain of this State according to the general law on the principal of alternate sections; provided, the State shall not be in any ways liable for any deficiency in public domain.

Sec. 10. That the said railway company shall be authorized to establish such reasonable charges for passengers and freight as it may deem proper, not to exceed the rate established by the general law of this State; and the said railway company shall be subject to such general laws as now exists, or that may hereafter be enacted, relating to railroads.

Sec. 11. That this act take effect and be in force from and after its passage.

Approved March 10th, 1875.

CHAPTER LIX.

An Act for the relief of J. W. Pope, Special Judge.

Section 1. Be it enacted by the Legislature of the State of Texas, That J. W. Pope be and he is hereby allowed the sum of two hundred and eighty-seven and forty-one-hundredths dollars for services as special Judge of the Sixth Judicial District of the State of Texas, for thirty days at nine and fifty-eight-hundredths dollars per day, rendered during the months of November and December, A. D. 1874, and that the said sum of two hundred and eighty-seven and forty [one] hundredths dollars be and the same is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay said claim, and that a certified copy of this act shall be sufficient authority for the Comptroller to audit said claim, and to draw his warrant upon the Treasurer for the same.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 10th, 1875.

CHAPTER LX.

An Act to incorporate the Houston East and West Texas Railway Company, and to promote the construction of the Railway.

Section 1. Be it enacted by the Legislature of the State of Texas, That Paul Bremond, W. J. Hutchins, T. W. House, Abraham Groesbeck, Henry S. Fox, Ben. A. Botts, E. W. Cave, F. A. Rice, J. T. Brady, Eugene Pilott, J. S. Roberts, Ed. Milly [Milby], J. M. Mitchell, W. D. Cleveland, Peter Floeck, John Kennedy and John Shearn, be and are hereby appointed commissioners to open books and receive subscriptions to the capital stock of a corporation to be named and styled the Houston East and West Texas Railway Company. A majority of said commissioners shall constitute a quorum to do business, and shall meet in the city of Houston on the first Monday in April, 1875, or as soon thereafter as a majority may agree upon. Said commissioners may act in person or by proxy; and they may appoint one or more of their own body, and such other agents as they may select, to open books at such places as they may direct, to receive subscriptions to the capital stock of said company. And the said company shall hold meetings from time to time as their business may require, until directors shall be selected as hereinafter provided for, in receiving subscriptions to the capital stock of said company; they shall require five per centum thereof at the time of subscription, and any subscription to said stock upon which the amount of five per centum is not paid, shall be void, and the party receiving any subscription on the part of said company shall be responsible to it for the said five per centum of said stock.

Sec. 2. That subscribers to the said capital stock, whenever they shall have selected directors, are hereby created and established a body corporate and politic under the name and style of the Houston East and West Texas Railway Company, with capacity in said corporate name to sue and be sued, to plead and be impleaded, to have succession and a common seal, to make contracts, to grant and receive, to make by-laws for its government, to hold and convey property, both real and personal, and gene-

rally to do and perform all things necessary and proper to the maintenance of its () under this act and not inconsistent with the Constitution of this State and of the United States; provided, said company shall not have the right to purchase real estate, except so far as may be necessary to operate and maintain said railway. Said company shall also be required, upon pain of forfeiture of all lands acquired from the State, to sell or dispose of said lands as follows: one-third in eight years, one-third in sixteen years and one-third in twenty years.

Sec. 3. The capital stock of said company shall not exceed ten millions of dollars (\$10,000,000), to be divided into shares of one hundred dollars (\$100) each, each share to entitle the owner thereof to one vote in all elections and meetings of said company, when stockholders are called to vote, and a majority of votes shall govern in all cases, and the shares of stock shall be deemed personal property, transferable only on the books of said company.

Sec. 4. That the direction and control of the affairs of said company shall be vested in a board of not less than five nor more than nine directors, as the by-laws may provide; said directors shall be chosen by the stockholders at at their annual meetings, the first of which shall be holden at such time as the corporators herein shall designate; said directors shall select one of their own body to be president of said company, shall fill vacancies in their body, shall appoint a secretary and treasurer and such other officers and agents as they may deem proper for conducting the business of said company; and may require bond for the prompt and honest discharge of their duties, and make all proper rules for the holding of their meetings and all other rules not inconsistent with the general law which they may deem necessary to promote the interest of the company; they shall cause to be kept accurate books of accounts, exhibiting the receipts and expenditures of said company. A majority of the directors shall constitute a quorum to do business and shall have the power of a full board, and all conveyances and contracts signed by the president and countersigned by the secretary, or any other officer duly authorized by the board of directors, when the same is in execution of any order of the board, shall be binding and valid.

Sec. 5. That as soon as one hundred thousand dollars (\$100,000) of the capital stock of said company is sub-

scribed, and five per centum thereof paid to the said commissioners, they shall cause the first election to be held for directors, first giving notice of the time and place of such election by publication in some newspaper published in the city of Houston, another published east of the Trinity river, and another published west of the Brazos river; and when said directors so elected shall have organized, which organization shall be completed within at least twelve months after the passage of this act, the commissioners shall pay over to the treasurer of the company all money they have received upon subscription of the stock of said company, and deliver to said directors all the books and papers belonging to said company.

Sec. 6. That the said company is hereby authorized to construct, own, maintain, equip and operate a railway of one or more tracks, of three feet gauge, upon and over the following route, viz: The eastern division of which shall commence at the city of Houston; thence through Eastern Texas, passing through the counties of Liberty, Polk, Tyler, Angelina and Nacogdoches to Red River, in Bowie county, with a branch through Jasper county to the east bank of the Sabine river, and with another branch through Shelby county to the east bank of the Sabine river, at or near the town of Logansport. The western division of said railway shall extend from the city of Houston westward, to the town of Victoria, in Victoria county, Goliad, in Goliad county, and Beeville, in Bee county, and establish and maintain depots within one mile of the courthouses in said towns; from Beeville to or near Laredo, on the Rio Grande river, with a branch to the waters of Corpus Christi Bay; in locating the whole, or any part of said line of said railway, due regard shall be had to the general and special topography of the country, practicability and economy of constructing and operating said railway. The said western division may commence at any point on the line of the Western Narrow Gauge Railway, west of the Brazos river and south of LaGrange, and for the purpose of making connections with other lines of transportation, at or near Houston, and especially with deep water on Buffalo Bayou; said company may construct such extensions, branches, switches and turnouts as it may deem necessary for its purposes; said company may construct and operate such depots, machine shops, car factories, furnaces, foundries, rolling mills and other appliances as

it may find necessary to equip and operate said railway; and said company may commence and carry on the work of construction on any part of the line at the same time.

Sec. 7. That said company after its organization in pursuance of this act, under the board of directors, shall have the power to receive for the subscription to the capital stock of said company until the whole amount shall have been subscribed. Any agreement in writing to subscribe for stock may be enforced according to its terms, and if any subscriber shall fail to pay any amount due upon shares subscribed for by him according to the terms of his subscription, the directors may sell at auction, after giving thirty days notice, as required at sheriff's sale; the sale to take place in the county where the company has its principal office, and transfer the shares of such delinquent to the purchaser, and if the proceeds of such sale shall not be sufficient to pay the amount due, with interest and charges, said delinquent shall be liable to said company for the deficiency, but if the proceeds shall exceed the amount due, with interest and charges, he shall be entitled to the excess.

Sec. 8. It shall be lawful for said company to enter upon and purchase or otherwise take and hold any land necessary for the purpose of locating, constructing and maintaining said railway with all the necessary switches, depots and other buildings connected with the said railway; and if said company shall not be able to obtain such land by agreement with the owners thereof, it shall pay such compensation as shall be determined in the manner provided in the following section; the land so taken for the road-bed shall not exceed fifty yards in width, and for switches, turntables, depots and other buildings, only such width as shall be absolutely necessary.

Sec. 9. Any person, when his land has been taken as aforesaid, may apply to the chief justice of the county where the land is situated, for the appointment of three free-holders, and said chief justice shall thereupon appoint a time and place to hear the applicants and the company, to whom shall be given reasonable notice of such time and place; and said free-holders, after being duly sworn and having heard the parties, shall determine the compensation to be paid to the applicant, and make return of their award to the next regular term of the county court of said county, and said award may be confirmed, or for any sufficient rea-

son, it may be set aside by said court; and if it be confirmed, judgment shall be rendered thereon as in other cases; in determining the compensation to be paid as aforesaid, the said free-holders shall be governed by the actual value of the land at the time it was taken, and shall consider the injury and benefit which would result to the adjoining land of the applicant by the establishment of the railroad.

Sec. 10. The said company, in its charge for freight, passengers and the general conduct of its business, shall be governed by the general railroad law; it shall have the right to cross all public highways that it may be necessary to cross to establish said railway, and if said railway shall cross any stream that is navigable, it shall cross it in such manner as not to impede navigation.

Sec. 11. The said company shall have the right to form a junction with any other railroad along its line, or at either of its termini, upon such terms and conditions as may be agreed upon by the companies, and if, from any cause, said companies cannot agree upon the terms and conditions of said junction, then, in that case, the same shall be determined by arbitrators, not being stockholders in other companies, to be chosen by each party, and if they cannot agree, the difference to be adjusted by an umpire chosen by the arbitrators.

Sec. 12. That said railway company shall have power to borrow money and to issue its bonds or other obligations with or without mortgage, upon any of the property or purchases of said company, and to negotiate the same; said company shall also have the power to use any of its capital stock not otherwise disposed of, or its bonds or other obligations in the payment of construction of said railway and in the purchase of iron, rolling stock and other material for the use of said company, and in liquidation of any of the obligations of the company, upon such terms as may be agreed on between said company and the party receiving the same.

Sec. 13. That this company shall be subject to all the general laws now in force or which may hereafter be in force, in regard to running over the road of one company by another of the same gauge, when the public interest or the interest of commerce may require it, and may form a junction and connect with any other railroad as may best and most certainly secure the construction of its railway.

Sec. 14. That the principal office of said company shall be located in the city of Houston, and that the annual meetings of the stockholders, after its organization, shall be held at said principal office on the first Tuesday of December of each year after its organization, as hereinafter provided, which shall be a day for the transaction of business for the stockholders, at which time the annual election of directors shall take place. Should the stockholders owning a majority of the stock fail to meet on that day, the directors may appoint another day for said election, and the election held on the day appointed shall be valid. The directors elected under the provisions hereof shall continue to serve until their successors are duly elected and qualified.

Sec. 15. That the State of Texas hereby grants to said company sixteen sections of land, of six hundred and forty acres each, for every mile of road constructed by said company, for which certificates shall be issued to said company by the Commissioner of the General Land Office, in the manner prescribed by the general law governing the issuance and location of land certificates to be issued to railroad companies; provided, that no certificate shall be issued to said company until it has completed ten miles of its road; and to entitle said company to the benefits of this section, said railway shall be built and equipped in a good and substantial manner with iron or steel rails of not less than thirty pounds to each lineal yard, and in accordance with the usual method of like railway construction; provided, that should there be a deficiency in the public domain no claim shall exist or liability of the State attached for any such deficiency.

Sec. 16. That said company shall construct at least twenty miles of railway within two years after its organization, and shall continue to construct at least twenty miles of said railway every year thereafter, and upon failure to do so said company shall forfeit all the rights, privileges and franchises granted by this act, except as to the railway then constructed.

Sec. 17. This charter shall remain in force for fifty years from the completion of said railway; provided, the conditions set forth are fully complied with, and shall not consolidate with any parallel or competing road.

Sec. 18. That this act take effect and be in force from and after its passage.

Approved March 11th, 1875.

CHAPTER LXI.

An Act to grant Ann E. Lynch the privilege of collecting tolls at a certain place, and fixing the rate thereof.

Whereas, Ann E. Lynch has caused to be cut through her lands lying in a bend of the Sabine river, in Orange county, Texas, a canal across said bend, whereby some four or more miles of navigation is saved to vessels; and

Whereas, Said canal is wholly in the State of Texas, and in no way injures the navigation of the river around said bend; and

Whereas, The said Ann E. Lynch and her late husband, Henry B. Force, have expended large sums of money in completing said canal, and keeping the same in repairs; now, therefore:

Section 1. Be it enacted by the Legislature of the State of Texas, That Ann E. Lynch, of the State of Texas, and county of Orange, be and she is hereby authorized to charge, collect and receive tolls of all vessels passing through the canal known as the Orange cut off of the waters of the Sabine river, about two miles below the town of Orange, in said Orange county, at the following rates, to-wit: Rates of toll to be charged each time going through, on steamboats, one dollar each; on sail vessels, two and a half cents per ton; on sail-boats, under five tons, twenty-five cents; on skiffs and dug-outs, ten cents; on flat and keel boats, fifty cents; on each stick of timber, five cents each.

Sec. 2. That the rights, privileges and immunities hereby conferred on the said Ann E. Lynch may be exercised by her or her authorized agents for the term of twenty years, at the end of which time said right shall divest, and said canal become a free highway to the public.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved March 11th, 1875.

CHAPTER LXII.

An Act to amend sections two and eleven of "An Act to incorporate the Beaumont, Corsicana and Fort Worth Railroad Company," passed May 29th, 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That section two of the above recited

act be so amended as to read as follows: Section 2. That the said company is hereby invested with the right of making, owning and maintaining a single track railway and telegraph line, from or near Beaumont, in Jefferson county, or at such point on the Texas and New Orleans Railroad, or Eastern Texas Railroad, within the county of Jefferson, as may be deemed most expedient or convenient, and running thence in a northwesterly direction by the most eligible route to the town of Hardin, in Hardin county; thence to a point on the Livingston and Woodville road, five miles east of the town of Livingston, in Polk county, and there to establish a passenger and freight depot; thence to the town of Crocket, in Houston county; thence by the most eligible route, to the town of Fairfield, in Freestone county; thence to the town of Corsicana, in Navarro county; thence to the town of Waxahachie, in Ellis county, and thence to the town of Fort Worth, in Tarrant county; with the privilege of forming such junctions, crossings or connections with the Texas and Pacific Railroad at Fort Worth, as may be deemed eligible and convenient; provided, that said company shall establish a passenger and freight depot within one-half mile of the business portion of each of said towns; provided, said towns respectively, shall donate to said company, sufficient lands for rights of way, switches, side tracks and depot buildings, not to exceed in each case, fifteen acres; and the said company shall have a right to form junctions, crossings or running connections with any railroad on their line between Beaumont, Corsicana and Fort Worth, with full power to unite with any other company upon such terms as may be agreed upon, and the right to cross and bridge all rivers and water courses along the line, subject to the laws of the State in regard to the navigation thereof. Said company shall commence the construction of their said road either at the town of Beaumont or Concord, in Jefferson county, or at the point on the International Railroad, where the line of the said Beaumont, Corsicana and Fort Worth Railroad crosses the said International Railroad, as may be deemed most practicable and expedient, and shall complete and put in good substantial running order, fifty miles of said road by the first day of January, A. D. 1877, and shall thereafter construct annually and put in substantial running order, twenty-five miles of said road; and upon failing

to comply with the provisions of this section, said company shall forfeit all rights to the lands herein donated, except upon completed road.

Sec. 2. That section eleven of said act be so amended as to read as follows: Section 11. It shall be the duty of said board to open books at such times and places as they may deem proper to receive subscriptions to the capital stock of said corporation, and as soon as one hundred thousand dollars of the capital stock of said corporation shall be subscribed, and five per cent. thereof paid in and the balance thereof secured by promissory note, the president, or in his absence the vice president, secretary and treasurer, or any two of them, shall appoint a time and place for the first meeting of the subscribers to the stock of the company, and give notice thereof in at least one daily newspaper, published in each State, in which subscriptions have been made, for at least thirty days previous to the day of meeting, and such subscribers to said stock as shall attend the meeting so called, either in person or by proxy, authorized by writing, shall there and then elect by ballot, nine directors for said corporation. In all elections each share of the capital stock shall entitle the owner to one vote, and no one shall be a director who is not the owner of one or more shares of said stock.

Sec. 3. That all laws and part of laws in conflict with this act, be and they are hereby repealed, and that this act take effect and be in force from and after its passage.

Approved March 11th, 1875.

CHAPTER LXIII.

An Act to require the "Texas and Pacific Railway Company" to erect and maintain a depot at Texarkana, within the limits of the State.

Section 1. Be it enacted by the Legislature of the State of Texas, That within thirty days after the passage of this act, the "Texas and Pacific Railway Company" shall be required to establish a depot upon the Trans-Continental line of its railway at Texarkana, in Bowie county, within the State of Texas.

Sec. 2. That the said company shall cause its trains in

passing said depot, to stop there a sufficient time for the discharge and reception of freight, and for passengers to get on and off.

Sec. 3. For each and every violation of this act, said company shall forfeit and pay the sum of one hundred dollars, to be recovered in any court of competent jurisdiction, at the suit of any party aggrieved.

Sec. 4. That this act take effect and be in force thirty days after its passage.

Approved March 11th, 1875.

CHAPTER LXIV.

An Act to incorporate the "Waco, Belton and Gatesville Turnpike Company."

Section 1. Be it enacted by the Legislature of the State of Texas, That W. A. Ford, John C. West, T. S. Napier, S. B. Trice, Thomas Harrison, E. A. Sturgis, Thomas Cobb, J. B. Hendrick, T. B. Earle and W. B. Trice, of McLennan county; and Silas Baggett, Elijah Embry and E. S. C. Robertson, of Bell county; and James R. Landen and W. H. Belcher, of Coryell county, and their successors in office, be and are hereby declared a body corporate and politic, by the name and style of the "Waco, Belton and Gatesville Turnpike Company," and by and under said name may sue and be sued, purchase, or receive by gift, hold, sell and convey real and personal estate, make contracts, plead and be impleaded, either in law or equity, to make by-laws not inconsistent with the laws and constitution of this State or the constitution and laws of the United States, and to do and perform all lawful acts for the transaction of the business for which this corporation is created, including the right to have a common seal, and alter the same at their pleasure.

Sec. 2. That books for the subscription of two thousand shares of the capital stock of said company shall be opened at Waco, within sixty days after the passage of this act, and shall be kept open at common business hours by suitable persons appointed by the corporators, until the sum of five thousand dollars is subscribed. The capital stock of said company shall not exceed fifty thousand dollars.

Sec. 3. That in four months after opening said books the agents so receiving subscriptions shall transmit the books of subscription of stock in said road to the corporation at the city of Waco, in the county of McLennan, and as soon as the sum of five thousand dollars of stock of said road shall have been subscribed, it shall be the duty of the corporators, hereinbefore named, to advertise in some newspaper published in Waco, Belton and Gatesville, stating the time and place of electing twelve directors for the management of the business of said road, all of whom shall be stockholders, and one of whom shall be president of said board.

Sec. 4. That the business of said company shall be managed by the president and directors, any five of whom shall constitute a board to do business, who shall hold their office for the space of one year next succeeding their election, and until their successors are elected and qualified; and should any vacancy occur in said board by death, resignation, or removal, the remaining directors shall have power to fill such vacancy.

Sec. 5. That said president and directors, so soon as organized, may proceed to survey and lay off said road from the intersection of Eight and Austin streets, in the city of Waco, in the general direction of the present Gatesville and Belton road, passing through Whitehall neighborhood and branching at some eligible point, to be named by the directors; and for the purpose of the making and keeping the same in repair, may by themselves, agents or contractors cut, dig, quarry, and take from the land of any person adjoining said road, such timber, gravel, stone and earth as may from time to time be necessary; and should any person or persons from whose lands such timber, gravel, stone or earth may have been taken, desire compensation therefor, they may by themselves or agents apply to the nearest justice of the peace in the county in which such land is situated; notice of the time and place having been given to the president and any two directors of the road, to appoint three disinterested freeholders for the purpose of valuing such timber, gravel, stone and earth, whose duty it shall be, upon their own view and upon oath, to ascertain the facts and the reasonable value of the same, and to grant a certificate thereof to the party applying, if required; and it shall be lawful for such person to recover such amount before any tribunal having jurisdiction

thereof; and also, if any person through whose lands the said road may run, shall consider himself injured thereby, except along the line of the present public road, the damages shall be assessed and paid as aforesaid.

Sec. 6. That said road shall be opened thirty feet wide with sufficient ditches on each side of said road to convey off the water and drain the same with culverts or under-crop drains when necessary, built of stone and covered in a safe and substantial manner; and said road shall be highest on the center gradually descending to each side; shall have substantial, safe and sufficient bridges where necessary, and said road in all respects shall be completed in a faithful and permanent manner. The said company may at its discretion, two-thirds of the stockholders agreeing, construct said road by graduating the same to an elevation in no place exceeding three and a half degrees convex on the center with sufficient descent to each side to carry off the water from the center, with ample ditches on each side of said road of sufficient capacity to carry off and prevent water from collecting on said road; and when one continuous section of five miles of said road is completed, the president and directors shall notify the Governor of the State, whose duty it shall be to instruct the State Engineer or such other competent person as the Governor may designate to view and examine the part of the road so completed at the company's expense, and on the report of said viewer, that the road or any particular part thereof in one continuous line for five miles is constructed in conformity to this section, being approved by the Governor, and a certified copy thereof sent to the county court, it shall be the duty of said county court to make an order, directing that said company shall be authorized to erect one toll gate on the part so finished; and upon the completion of each continuous line of said road of five miles, examined as aforesaid, said company shall be authorized to erect a gate for the reception of toll, until the entire road is completed upon the plan heretofore set forth and mentioned; provided, always, that said company shall not erect a toll gate at any place upon said road at a point less than one mile distant from any seat of justice or county town; provided, that the president and directors are fully authorized, if it should be deemed expedient by the stockholders owning bona fide two-thirds of the stock of said company, to cover the whole or any part of said road upon

the McAdam plan, either with limestone rock, gravel or wood material, of the usual thickness, and at least twenty feet wide; and upon said company so completing said road by covering it with rock, gravel or wood material, it shall have full power and authority to erect toll gates for every five miles so covered as aforesaid. Said toll gates to be not more than ten nor less than three miles apart, but the amount of toll charged shall be computed by the distance of five miles.

Sec. 7. That upon the approval by the Governor of the report of the viewer aforesaid, it shall be the duty of the Commissioner of the Land Office to issue to said company certificates of six hundred and forty acres of land, each equal to eight sections per mile of the road so completed, as a donation by the State to said company, which shall be located, surveyed and patented in all respects in the same manner as such donations of lands are made to said roads, and the State of Texas shall not be liable for any deficiency in the public domain.

Sec. 8. That said company, in its corporate character at each point on said road, shall have full power and authority to lease, rent or purchase an estate in fee simple, on which to erect toll houses and all other houses necessary and proper, to the use of said company, and for each five miles shall be authorized to demand and receive the following rates of toll, to-wit: For buggy with one horse, ten cents; buggy or carriage with two horses, fifteen cents; an empty two-horse or ox wagon and driver, fifteen cents; a loaded wagon with two animals, twenty-five cents; every additional draught animal, two and a half cents; every man and horse or mule, five cents; for every twenty head of sheep, twenty cents; for every hog, one cent; for every head of horses or mules in a drove, two cents; for each and every horse or mule not in a drove, three cents; for every head of cattle, three cents; at each and every gate on said road.

Sec. 9. That said company shall have full power to appoint a toll-gatherer at each gate erected on said road, and that if any person shall fail or refuse to pay the rates of toll herein set forth when demanded by the toll gatherer at the time offering to pass said gate, the toll-gatherer may lawfully refuse a passage to such person or persons, or other things subject to toll as aforesaid; or if any person, article or thing subject to toll, shall by any means pass

any gate on said road without payment when demanded by the toll-gatherer of said company, may by warrant from any justice of the peace, recover from the owner of or the person or persons in possession of the articles or things subject to toll, five dollars for each offense, to be sued for in the name of the president of the board of directors for said company; the judgment in such case to operate as a lien upon the article subject to toll, until said judgment and costs are paid.

Sec. 10. That the capital stock of said company shall be fifty thousand dollars, divided into shares of twenty-five dollars each, and in all elections each share shall be entitled to one vote. The payment of the stock shall be called for at the discretion of the president and directors of the company, and upon failure to pay according to the calls as aforesaid, said president and directors may declare the stock of said delinquent to be forfeited to said company, or may sue and recover the amount before any tribunal having jurisdiction thereof at their election; provided, that at least thirty days notice of such call shall be given to the stockholders of said company, by advertisement in some newspaper published near the locality of said road.

Sec. 11. That on the first Monday in February in each year, there shall be a meeting of the stockholders at such place as the president and directors may appoint, for the purpose of taking into consideration the general condition of said company, and for the purpose of electing directors for the ensuing year, who shall hold their office for one year and until their successors are elected and qualified; and should no election take place, then it shall take place at such time thereafter as the president and directors may designate, whose duty it shall be immediately to designate the time and place of holding an election, giving thirty days notice thereof in some newspaper published nearest to said road.

Sec. 12. That this charter shall exist and be in full force and effect for the term of twenty years.

Sec. 13. That this act take effect and be in force from and after its passage.

Approved March 12th, 1875.

CHAPTER LXV.

An Act to improve the navigation of Oyster Creek, Bernard and Cany.

Section 1. Be it enacted by the Legislature of the State of Texas, That a board of three commissioners, any two of whom may act, be appointed by the Governor for each of the following streams: Oyster Creek, Bernard and Cany; said commissioners to be selected from the inhabitants living on said streams, who are hereby constituted with full power to superintend, contract for and control the opening and clearing out said streams in this State.

Sec. 2. That the said board of commissioners so appointed shall, within six months from the date of the passage of this act, enter into contract with solvent, responsible and experienced contractors, to open and clean out a channel in said rivers and creek, at least sixty feet wide, by cutting or sawing off, digging out, or otherwise removing all obstructions below what is now considered too low water for navigation, and to girdle or cut down all trees likely to obstruct the navigation of said rivers or streams, for each and every of said streams, from the mouths of the same to head of navigation on each; also, for cutting canals through shoals, oyster banks, bend or bends of said rivers.

Sec. 3. That the Governor of the State is hereby authorized and required to appoint a competent engineer to examine and pass upon each mile of said stream or streams so opened and freed from obstruction, who shall, under oath, file a certificate with the Comptroller, after he has inspected said work, setting forth the number of miles worked on in said streams, opened and cleaned out, as required by this act; and for each and every day actually employed in inspecting said work so done on said stream or streams, the said engineer shall be entitled to receive the sum of eight dollars per day, to be paid by the contractor or contractors.

Sec. 4. That upon the filing of the certificate of the engineer, as provided for in the third section of this act, the Commissioner of the General Land Office shall issue, or cause to be issued, to the contractor or contractors who shall have done the work, for each and every mile of said stream or streams so opened, eight certificates, each for six hundred and forty acres of land; said certificates issued

under this act shall be located in alternate sections, the even sections being reserved to the school fund, as other lands granted in aid of other works of internal improvement under the laws regulating the same, on any of the unappropriated or previously unsurveyed or unlocated land of the State; provided, always, that the State of Texas shall not be responsible for deficiency of public domain.

Sec. 5. That said contractor or contractors shall complete the work by the first day of December, A. D. 1876.

Sec. 6. That the land obtained under the provisions of this act shall be alienated within sixteen years; and a failure to comply with the provisions of this section shall work a forfeiture of all lands not alienated as required by this act; and the engineer appointed under provisions of this act shall be paid by the contracting parties.

Sec. 7. That this act shall take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER LXVI.

An Act to incorporate the Lamar University Association, and to provide the means to carry out the same.

Whereas, the establishment and endowment of a University commensurate with the progress and future greatness of the State of Texas, is an object laudable in its pursuit, and prolific in its blessings upon a people; and,

Whereas, many enterprising citizens are anxious to contribute by gift, loan, subscription or otherwise to the establishment and maintenance of such a University in the State of Texas, provided the Legislature will grant such a charter to the enterprise as will inaugurate and place upon a permanent and self-sustaining basis; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That Travis G. Wright, Ed. Gibbons, S. E. Clements, S. J. Wright, J. D. Wortham, W. B. Wright, Wm. Bramlette, J. H. Wright, A. Cate and Travis Henderson, their successors and assigns, be and they are hereby created a corporation by the name of the Lamar University Association, and by said corporate name are hereby given all the rights, privileges and powers of bodies corporate, for the use and purposes herein set forth.

Sec. 2. That the said corporation may acquire and hold by gift, purchase, loan or otherwise, moneys, stocks, real estate, books for library, and so forth, and may acquire and hold in fee simple or otherwise the necessary grounds and buildings for the use and benefit of such university and may make such rules, regulations and by-laws for the acquisition, erection and use of said university as may be deemed necessary; provided, they are not in conflict with this act.

Sec. 3. That the property and affairs of said university immediately after its completion shall be under the control and management of nine trustees, six of whom shall be chosen by the stockholders, one appointed by the Governor of the State of Texas, one by the Grand Lodge of Free and Accepted Masons of the State of Texas, and one by the Grand Lodge of Independent Order of Odd Fellows of the State of Texas, once in every two years, who shall hold office until their successors are chosen. A vacancy in the board of trustees caused by resignation, death or otherwise, shall be filled by the other trustees, or a majority of them, in such manner as they may determine. Five trustees shall constitute a quorum for the transaction of business. The biennial choosing of six trustees by the stockholders shall be upon notice published in one or more of the papers published in the city of Paris, Texas, for at least ten days next preceding the meeting of the stockholders for that purpose. The meeting of the stockholders to choose trustees shall be in the university building, and at such meeting the six trustees, selected by a majority of the stockholders present, shall serve for the ensuing two years, and until their successors are chosen.

Sec. 4. That the trustees shall be empowered to manage the affairs of the university, fix salaries for officers and professors of same, and do all and everything necessary and proper for the government of said university.

Sec. 5. That the Lamar University Association shall be located in the corporate limits of the city of Paris. Its capital stock shall be one hundred thousand dollars (\$100,000), divided into shares of one hundred dollars each. The stock shall be evidenced by such stock-books, certificates of issue and transfers as the incorporators shall determine by the by-laws. When one hundred shares are subscribed for, the incorporators, or a majority of them, may organize and begin operations. Either of the persons

named in this act may receive subscriptions of stock until the corporation is organized under this charter, and after organization, the incorporators, or a majority of them, may make such arrangements as they may deem best for additional subscriptions.

Sec. 6. That should said university at any time receive by gift, grant, or bequest, any considerable amount of money or property, for which the incorporators are not required to issue stock, the trustees shall invest the same in permanent stocks or improved real estate in the State of Texas, from which an annual income may be drawn for the enlargement, support and expense of the university.

Sec. 7. That to obtain buildings, material, philosophical and chemical apparatus, books, and such other property as said corporation may hold, the incorporators, or a majority of them, are hereby authorized and empowered to issue stock for the same as though such stock had been first sold and the proceeds thereof invested in such things; also, to accept presents, donations, gifts of books and property of every description without issuing stock therefor; also, to publish a paper or periodical journal for the benefit of the university, and appropriate the profits arising therefrom to the university; and under no circumstances is this university ever to be converted to private use, or used for the dissemination of sectarian principles of religion, but it shall remain an institute of learning forever.

Sec. 8. That the Lamar University Association, or a majority of them, are hereby authorized to appoint and employ such agents and assistants as they may deem necessary; to select suitable material for building purposes; apparatus, books; to secure subscriptions and donations, and to give and conduct literary, musical and dramatic entertainments for the benefit of the university; but in such appointments and employments they are not to involve the Association in debt, nor incur for it any liabilities beyond its ready means of meeting the same.

Sec. 9. That should the corporation hereby created fail to build and establish a university as contemplated by this act, then all moneys and property of any description, which may have been acquired by gift, shall be restored to those who gave it, and all moneys and property which may have been acquired otherwise than by gift, shall be equitably divided or sold, and the proceeds thereof equitably and

equally divided among the stockholders according to the shares of stock held by each one.

Sec. 10. That this act shall take effect from and after its passage.

Approved March 13th, 1875.

CHAPTER LXVII.

An Act to validate the official acts of J. H. Jernigan as Notary Public of Hunt County.

Whereas, James H. Jernigan was appointed Notary Public of Hunt county in 1873; and

Whereas, The said James H. Jernigan made and filed his bond with the Clerk of the District Court for said county; and

Whereas, It has been ascertained that the said bond was mislaid or lost by the said Clerk before he recorded it; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the official acts of James H. Jernigan as Notary Public for Hunt county, are hereby validated as fully as if the bond of the said Jernigan had been recorded by the District Clerk of said county.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER LXVIII.

An Act to incorporate the Central Narrow Gauge Rail Road Company, and to grant lands to aid in the construction of its road.

Section 1. Be it enacted by the Legislature of the State of Texas, That A. W. Ferguson, Jacob H. Brown, W. J. Goodman, E. C. Williams, George Yarborough, R. B. Hubbard, James P. Douglas, W. S. Herndon, Wm. R. Baker, B. N. Boren, W. B. Stirman, T. F. Mercherson, W. C. Larkin, James Arnott, S. L. Chamblis, Sam R. Frost, Henroy Malloy, H. R. Martin, J. D. Stevens, A. R. Fancher, John D. Warren, and their associates, successors and

assigns, be and they are hereby constituted a body corporate and politic, under the name of the Central Narrow Gauge Rail Road Company, under which name they shall have succession and a common seal, with the right to sue and be sued, plead and be impleaded, contract and be contracted with, to have and hold, purchase and convey real and personal property, necessary for the construction and maintenance of its road, make and enforce by-laws, and to do and perform all acts and things that may become necessary and proper to be done, to carry out the objects of this incorporation, and to maintain their rights under this act.

Sec. 2. The persons above named shall elect a board of not less than seven or more than nine directors, said election to be held at a meeting of the incorporators, to be held at the city of Tyler within three months after the passage of this act. Said directors shall select from their number a president, vice-president and treasurer. Said board shall exercise the office of directors for one year from the date of their election, or until their successors are elected.

Sec. 3. Said company shall have the right to construct, equip, operate and own, a continuous line of railroad and telegraph line, beginning at the city of Tyler, in Smith county, and running thence by the town of Athens, in Henderson county, the city of Corsicana, in Navarro county, the towns of Hillsborough, in Hill county, Meridian in Bosque county, to Comanche, in Comanche county; thence in a westerly direction, across the State to the Rio Grande; provided, that said railroad shall not pass within five miles of any county seat without constructing its road within one mile of such town; provided, that such town or towns shall furnish the right of way for five miles on each side of such town or towns, and suitable depot grounds, not to exceed twenty acres, free of cost; provided, that the said city of Tyler and Corsicana, and said towns of Athens, Hillsborough, Meridian and Comanche, shall furnish the right of way through their limits, and suitable depot grounds, and the right of way for five miles on each side of said towns free of cost.

Sec. 4. That said company shall have the right to enter upon all lands for making preliminary surveys, and to enter upon and take possession of all lands to the extent of two hundred feet in width for the purpose of road bed and

construction, and such additional land as may be necessary for depots, sidings, turn-outs, and machine shops as may be necessary. That the said company shall compensate the owners of such lands as may be agreed upon between the owners and the company; and if said parties shall fail to agree, or the owner of such lands be a non-resident, or unknown, then the property shall be acquired by the company in accordance with the general railroad laws of the State.

Sec. 5. The capital stock of said company shall not be greater than four millions of dollars, to be divided into shares of one hundred dollars each, each share to entitle its holder and owner to one vote at all meetings of the stockholders, and a majority of the stock shall govern, except where more than a majority is required under the by-laws. Said shares of stock shall be deemed personal property, and shall be transferable on the books of the company.

Sec. 6. The direction and control of said corporation and its affairs shall be vested in a board of not less than seven, nor more than nine directors, to be chosen by the stockholders at annual meetings, the first of which shall be held at the city of Tyler one year from the date of the election of the board, to be elected by the incorporators under section two of this act.

Sec. 7. Any agreement in writing to subscribe for stock may be enforced according to its terms, and unless payment be made according to the terms of subscription, the directors, after thirty days notice, may sell the stock of delinquent subscribers, and transfer the shares of said delinquent to the purchaser.

Sec. 8. That said railroad company shall have the right to construct their railroad across all public highways and all railroads, and to connect with any railroad it may intersect; provided, that said company shall not consolidate with any competing or parallel road.

Sec. 9. That said company shall have power to borrow money, issue bonds, or other bills of credit, and execute mortgages on its road and road bed, rolling stock and franchise, and generally this company shall have power to carry into successful effect its herein declared objects.

Sec. 10. This charter shall remain in force for a period of seventy years from the date of the completion of said rail-

road; and this company shall be subject to all general laws now in force, or that may be hereafter enacted by the Legislature, regulating railroads and railroad companies.

Sec. 11. That there be, and there is hereby granted to the said Central Narrow Gauge Rail Road Company, for the purpose of aiding in the construction of said railroad, sixteen sections of land, of six hundred and forty acres each, to be located upon any unlocated public domain, for every mile of railroad said company shall construct, equip and finish of said road, in the manner hereinafter mentioned: Now whenever said Central Narrow Gauge Rail Road Company shall have ten consecutive miles of its railroad completed and put in good substantial running order, and upon the completion of each additional ten miles of its railroad, the Governor of the State of Texas, shall appoint some competent person to inspect the same, and if the report of said inspector, under oath, be favorable, the Governor shall immediately notify the Commissioner of the General Land Office, whose duty it shall be to immediately issue to said company sixteen land certificates, of six hundred and forty acres each, for each and every mile of road completed and put in good substantial running order; said company to cause said land to be surveyed in the manner prescribed by general law, in alternate sections, and upon the return of the field notes and plats of surveys, made by virtue of said certificates, in accordance with law, the Commissioner of the General Land Office shall issue patents thereto, conveying the odd sections to the company, the even sections being reserved to the State for the school fund; provided, that in no case shall the State be liable for any deficiency of vacant domain.

Sec. 12. That the land herein donated to said company shall be alienated as follows: one-fourth thereof in eight years, one-fourth in twelve years, one-fourth in sixteen years, and the remaining one-fourth in twenty years; and on failure to comply with the terms of this section, said company shall forfeit all rights to lands donated to aid in the construction of its road, not so alienated; provided, that said land shall not be alienated to any other railroad company, or any corporation, firm or person in trust for said railroad company, nor to any corporation or firm of which any stockholder or officer of this company is a member.

Sec. 13. Said company shall commence the construction

of its road at the city of Tyler, and shall continue its construction thence westward, and shall complete twenty miles within two years from the passage of this act, and shall complete ten miles each year thereafter; and any failure to comply with the terms of this section shall work a forfeiture of the right to the lands donated by this act, upon the unbuilt portion of said road at the time of said forfeiture; provided, that said company may commence the construction of its road at Corsicana, and build thence westward at such time as it may determine.

Sec. 14. That said company are authorized to solicit and receive donations of lands, money, bonds or other property, either from individuals or private corporations, under any laws now in force or hereafter passed.

Sec. 15. That the said railroad shall be constructed of a width of gauge not less than three feet, and shall be substantially built and thoroughly equipped.

Sec. 16. That this act shall take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER LXIX.

An Act to amend section one of "An Act to authorize the city of Austin to become a stockholder in any company or corporation for the purpose of supplying said city with water and gas."

Section 1. Be it enacted by the Legislature of the State of Texas, That section one of an act entitled "An Act to authorize the city of Austin to become a stockholder in any company or corporation for the purpose of supplying said city with water and gas," be so amended as to read hereafter as follows: Section 1. That the mayor and city council of the city of Austin shall be and they are hereby authorized to subscribe for stock, for and in the name of the city of Austin, to an amount not to exceed the sum of one hundred thousand dollars, in any company that may be organized to supply said city with water and gas; and the said mayor and city council shall be and they are hereby authorized to issue bonds of said city for the payment of said stock, from time to time, as the said subscription shall be due and payable, which bonds shall be payable at a

period not to exceed thirty years from their date, and may bear interest at the rate not to exceed ten per cent. per annum, payable semi-annually; provided, that the subscription shall not take effect until it shall be voted upon at an election to be held in said city, at such time as may be ordered by the city council, after not less than thirty days' notice of the time of such election. The managers of said election shall be appointed by the council of the city, who shall hold the election and make returns thereof to the said council, as prescribed by the general law governing elections, so far as applicable. Those voting for the subscription shall write on their ballots the words: "For the subscription;" those opposing said subscription shall write on their ballots: "Against the subscription." None but registered voters, resident in the city sixty days before the election, shall be allowed to vote at said election. The council shall call a meeting within ten days after the said election, and make out and record the returns of the election in their minutes; and if it appear that two-thirds of the registered vote of the city have voted in favor of the subscription, the council will so decree, and enter the fact on their minutes, and from that day the subscription shall take effect; but if it appear that more than one-third of the registered vote of the city are opposed to the subscription, they will so declare, and enter the same upon their minutes; and in that event the subscription shall not take effect, nor shall the question be again submitted to the vote of the city within twelve months from such election.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER LXX.

An Act for the relief of H. C. Hunt and George W. Whitmore.

Section 1. Be it enacted by the Legislature of the State of Texas, That H. C. Hunt and George W. Whitmore be and are hereby relieved from the payment of a certain judgment heretofore rendered against them (to-wit, on the fourth day of March, 1873), as sureties on the bond of one George D. Kelly, in a certain suit (No. 3376) in the District

Court of the county of Travis, wherein the State of Texas is plaintiff, and one George D. Kelly, Ira B. Taylor, H. C. Hunt and George W. Whitmore are defendants; said judgment being for sum of (\$2675 45-100) twenty-six hundred and seventy-five dollars and forty-five cents, principal and interest, besides costs of suit.

Sec. 2. That the Clerk of the District Court of the county of Travis, wherein said judgment was rendered and is now pending, be and is hereby directed and required to enter a satisfaction of said judgments as to H. C. Hunt and George W. Whitmore.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER LXXI.

An Act in relation to holding a Justice's Court in the town of Terrell, in Kaufman county.

Section 1. Be it enacted by the Legislature of the State of Texas, That the justice of the peace of precinct No. 1, of the county of Kaufman, be and he is hereby required to hold a session of his court once in each month, in the town of Terrell, in said precinct, at such time and with such territorial jurisdiction within the precinct as the county court shall prescribe.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER LXXII.

An Act to incorporate the Brazos Valley Narrow Gauge Railway Company, and to grant lands in aid of the construction of the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That John W. Carroll, Edward Reeves, J. P. Oliver and A. W. McIver, of Burleson county; S. W. Stone, E. M. Chappell, J. H. Blackburn, Jethro Atkinson,

Thomas C. Clay, James M. Williams, George B. Davis, John McKnight, Thomas N. Henderson, A. E. Lipscomb, Fayette Smith and J. Wesley Lott, of Washington county, and their associates, be and they are hereby appointed commissioners to open books and receive subscriptions to the capital stock of a corporation hereby created, to be styled the "Brazos Valley Narrow Gauge Railway Company."

Sec. 2. That a majority of the commissioners shall constitute a board for the transaction of business, and shall hold meetings from time to time until directors shall be elected, as hereinafter provided.

Sec. 3. At the time of subscribing to the capital stock of this company, the commissioners shall have the power to demand and receive not less than five per centum of the amount subscribed.

Sec. 4. The subscribers to the capital stock of this company are hereby created and established a body politic and corporate, under the name and style of the "Brazos Valley Narrow Gauge Railway Company," with capacity to contract, to sue and be sued, to plead and to be impleaded, to have succession for ninety-nine years, to have a common seal, to grant and receive, to make and enforce by-laws, and generally to do and perform all things necessary to maintain their rights under this act.

Sec. 5. The capital stock of this corporation shall be one hundred thousand dollars, which may be increased at any time by a vote of two-thirds of the stockholders to any amount not exceeding the sum of one million dollars. Said capital stock shall be divided into shares of fifty dollars each, and each share shall entitle its holder and owner to one vote in all meetings or elections of the stockholders; and a majority of the stock shall govern, except in cases otherwise specially provided. The shares shall be deemed personal property, and transferable only on the books of said company; and all transfers of the same shall be recorded in a book to be kept in the office of the company.

Sec. 6. The direction and control of said corporation and its affairs shall be vested in a board of not less than six, and not more than thirteen directors, to be chosen annually by the stockholders, at a regular meeting. Whenever the commissioners herein named shall have received subscriptions to the amount of seventy-five thousand dollars, to the capital stock of said company, they shall call a

meeting of the stockholders at some place in Washington county, for the election of directors and the organization of the company. And notice of such meeting shall be given by publication for at least two weeks prior thereto, in some paper published in Washington county. The principal office of the company shall be in the county of Washington, and the company shall have the right to establish such branch offices as they may desire.

Sec. 7. The directors chosen at each election shall meet within one week thereafter, and elect from their number a president and vice-president; the board shall appoint a secretary and treasurer, and such other officers as they may deem necessary. A majority of the directors shall constitute a quorum to do business. The first election of directors after the organization, shall take place on the first Tuesday in January next after such organization.

Sec. 8. That said company shall be and is hereby invested with the right of locating, constructing, owning, operating and maintaining a railway and telegraph line, commencing at the town of Chappell Hill, in Washington county, and running thence to and through the town of Independence, in said county, and thence to and through the town of Caldwell, in Burleson county, and thence by the most direct and practicable line, to an intersection with the line of the International railway, with the privilege of such further extension, in a northwesterly direction, as may be deemed expedient. And the said company shall have the right to cross all public highways and other railways that it may become necessary to cross in the construction of their said railway.

Sec. 9. The railway to be constructed under this act shall be of such gauge as the said company may select; provided, the same shall not be of less width than twenty-eight inches.

Sec. 10. Any agreement in writing to subscribe for stock may be enforced according to the terms of subscription, and unless payment be made of subscriptions and assessments, the stock may be forfeited to the company in any manner provided for in the by-laws of the company.

Sec. 11. It shall be lawful for said company to enter upon, purchase, or otherwise receive, take, hold or obtain, any lands necessary for the purpose of constructing and operating said railway, with all needed sidings, depots, turnouts, extensions and buildings connected with said

railway. When lands cannot be obtained by agreement, the company may enter upon and take, in accordance with law, a sufficient amount of land, not exceeding a width of one hundred and fifty feet. Whenever said railway may be constructed across any of the public domain of this State, the right of way, not exceeding one hundred and fifty feet, is hereby donated along the said line, together with all necessary grounds for depots, machine shops, turnouts, sidings, turntables, &c.; and the right to take from the public domain and use all rock, timber, earth or other material, necessary in the construction of said railway and its maintenance, is also donated.

Sec. 12. That the State of Texas hereby donates and grants to said railway company sixteen sections of land for each and every mile of said railway completed and put in good running order; and whenever the Governor shall be informed that five miles of said railway has been completed, he shall at once have the same inspected by a competent engineer; and if the inspector report, under oath, that said railway is completed as required by this act, for said distance, the Governor shall at once notify the Commissioner of the General Land Office, whose duty it shall be immediately to issue to the said company sixteen land certificates, of six hundred and forty acres each, for each and every mile of road completed, and so on for every additional five miles of road completed and so inspected and reported. Said land certificates shall be located, surveyed and patented, according to the provisions of the general railroad law, on the principle of alternate sections. And in no case shall the State be liable for any deficiency in the public domain.

Sec. 13. Said company shall alienate the lands herein donated, except so far as may be necessary to the proper use of the road, as follows, viz: one-fourth in eight years, one-fourth in twelve years, one-fourth in sixteen years, and the remainder in twenty years from the date of the issuance of said certificates; and said lands shall not be sold or alienated to any other railway corporation, except so far as may be necessary for the proper use and business of said corporation; nor shall said lands be conveyed to any one in trust for said company, or any other railway company. A failure to comply with the provisions of this section shall cause a forfeiture to the State of all lands not alienated as herein provided.

Sec. 14. That the commissioners and the board of directors shall have the power to solicit and receive donations and subscriptions of land in aid of the construction of said railway, and may take deeds to the same in the name of the company.

Sec. 15. That said company shall build and maintain a good and substantial road for transportation of passengers and freight, and the same shall be operated by steam; and the company shall charge such rates as they may see proper; but the same shall be subject to control and revision by the Legislature, by act applicable to all roads of a similar character.

Sec. 16. That said company shall have the power to borrow money, and issue bonds, with or without mortgage; provided, the same shall be done in conformity to a vote of two-thirds of the directors, sanctioned by a majority of the stockholders at a meeting held after thirty days notice of the same.

Sec. 17. The stockholders may vote at all elections, in person or by proxy.

Sec. 18. The organization of said company shall take place within one year after the passage of this act; and ten miles of said road shall be built within two years from said organization, and five miles each year thereafter. A failure to build said road, as herein provided, shall work a forfeiture of all the franchises of said company, except so far as that portion of the road which may be completed is concerned.

Sec. 19. That this act shall take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER LXXIII.

An Act to incorporate the Corpus Christi, San Diego and Rio Grande Narrow Gauge Railroad Company, and to grant lands to aid in the construction of its road.

Section 1. Be it enacted by the Legislature of the State of Texas, That N. Gussett, John B. Mitchell, George F. Evans, Uriah Lott, D. Hirsh, William L. Rogers, Hiram Chamberlain, Perry Doddridge and Ed. Buckley, of Corpus Christi; N. G. Collins, Frank W. Schaffer, and Frank

Gravis, of San Diego; C. M. McDonell, Meyer M. Levy and Henry Goldschmidt, of Laredo; and Leon Blum and C. W. Hurley, of Galveston, in the State of Texas, and all persons who shall or may be associated with them and their successors, are hereby created a body politic and corporate, in fact and in law, by the name of the Corpus Christi, San Diego and Rio Grande Narrow Gauge Railroad Company, and by that name shall have perpetual succession, and shall be able to sue and be sued, plead and be impleaded, defend and be defended in all courts of law and equity, and make and have a common seal, and the same to alter at the pleasure of the board of directors.

Sec. 2. That said company and corporation is authorized to lay out, construct, finish, maintain and operate and enjoy a continuous line of railroad of a gauge not less than three feet, nor more than four feet eight and one-half inches, together with a telegraph line, with all the appurtenances thereunto needed. Beginning at the city of Corpus Christi, in Nueces county, and running in as nearly a direct line as practicable to San Diego, in said county, and thence to Eagle Pass, on the Rio Grande river, with a branch from San Diego, or some convenient point, at the discretion of the directors, in Nueces county, to a point at or near Laredo, in Webb county; provided, that whenever the direct line of said road shall run within five miles of any county seat, the company shall establish and continue a freight and passenger depot within one-half mile of said town.

Sec. 3. That to the extent of two hundred feet in width along the line of this railroad, the right of way is hereby granted and alienated to said company over all public lands for the track or tracks of such railroad, and for all necessary sidings, extensions, turnouts, depots, station houses, machine shops, wells, water tanks and buildings incidental to the uses and purposes of such railroad in its construction and operation; also, the right to take from all public domain such timber, rock, earth and other material, as may be needed in the construction and operation of such railroad; also, the right to cross all public highways, to bridge all water courses, to construct, operate and maintain ferries along said line, when necessary, and to cross the track of any other railroad that may be intersected in establishing this railroad.

Sec. 4. That the capital stock of this company shall be

one million of dollars, divided into shares of one hundred dollars each, which capital stock may be increased by a two-thirds vote of the stockholders representing two-thirds of the stock, to an amount not exceeding three millions of dollars, as may be deemed requisite to carry out the objects of this company. Each share of stock shall entitle the holder thereof to one vote in all meetings and elections in which stockholders are entitled to vote, and a majority of votes shall govern in all cases not otherwise provided for by law. The said share of stock shall be deemed personal property, transferable only on the books of the company, in such manner and under such restrictions and regulations as the by-laws of the company shall provide. That the amount of stock to be subscribed, necessary to a permanent organization, shall be two hundred thousand dollars, of which amount of stock ten per cent. must have been paid in.

Sec. 5. That the legal domicil of this company shall be at Corpus Christi, at which place all regular meetings of the company shall be held; that the above named incorporatives shall constitute a temporary board of directors, and at their first meeting, which shall be held within three months after the passage of this act, shall elect from their number a president, vice-president, secretary and Treasurer, and shall immediately open books for the subscription of the stock necessary for a permanent organization. Upon subscription of such stock, ten per cent. of which shall be paid in, the president shall call a meeting, twenty days notice being given by publication in at least two weekly papers published along the proposed line, for the purpose of permanent organization, at which meeting the stockholders shall elect from their number thirteen directors, who shall hold office for one year, or until their successors are legally elected and qualified; said board of directors shall elect from their number a president and vice-president, who shall hold office during the term of the board from which they are elected. No stockholder shall be eligible for a director unless he shall be a bona fide owner of ten shares of the capital stock of said company.

Sec. 6. Any agreement, in writing, to subscribe for stock may be enforced according to the terms of subscription, and unless payment be made accordingly, the directors, after thirty days' notice, may sell the stock of delinquent subscribers, and transfer the shares so sold to the purchaser.

Sec. 7. That said company shall have power to borrow money; to issue bonds, or other bills of credit, with or without mortgage, upon its railway, its capital stock, its corporate franchises, and any and all its real or personal property, or any part or portion thereof, and to purchase property upon its own credit for the purpose of constructing and maintaining its railway; provided, any such act is done by a two-thirds vote of the directors.

Sec. 8. That when lands cannot be obtained by agreement with the owner or owners thereof, the company shall institute proceedings therefor, and shall acquire and pay for such lands in accordance with the provisions of the laws in such case made and in force and governing such matters.

Sec. 9. That the permanent organization of this company shall be perfected within six months of the passage of this act, and fifty miles of its road completed within two years, and ten miles each year thereafter, or this charter shall be forfeited as to that portion not built.

Sec. 10. That this company shall have the right and power to charge and collect such rates of freight and passage as the company may deem proper and just; provided, always, such charges are equal and uniform, and do not exceed the rates as are now or may be hereafter established by law.

Sec. 11. That said company shall be entitled to receive from the State of Texas a grant of sixteen sections of land for every mile of completed road hereafter constructed under this act, and put in good running order, in this State; and said company shall alienate the lands hereby granted and donated, except so far as may be necessary for the ordinary uses and operating said road, as follows, viz: one-fourth in eight years, one-fourth in twelve years, one-fourth in sixteen years, and one-fourth in twenty years, from the date of the location of the certificates, in such manner that the whole of such lands shall pass out of the hands of said company within twenty years from date of location; provided, that said lands shall not be alienated to any other railroad company or corporation, except so far as may be necessary for the proper use and conducting of the business of such company or corporation; nor shall said lands be alienated to any individual, firm or company, in trust for said railroad company, or to any firm or company of which any officer or stockholder of said

railroad company is a member; and a failure to comply with the provisions of this act and the general laws of the State on the subject, or a violation of the provisions of this act, shall work a forfeiture of all the benefits of this act. That the State of Texas shall not be liable for any deficiency in lands; provided, further, that the gauge shall not be less than three feet.

Sec. 12. That whenever said company shall have completed and put in good running order, as provided in this act, ten miles or more of its road, they may give notice thereof to the Governor of the State, whose duty it shall be to appoint some skillful engineer (if there be no State Engineer) to examine said completed road; and if upon the report of said engineer, under oath, it shall appear that said road has been constructed and equipped in a good and substantial manner, and in accordance with the provisions of the charter of the company, this act and the general laws in this State, at the time regulating railroads, thereupon it shall be the duty of the Commissioner of the General Land Office of the State to issue to said company certificates for six hundred and forty acres each, to the amount of sixteen sections per mile as completed and reported, which said certificates shall be located and surveyed in alternate sections, the field notes and maps returned to the General Land Office, and the odd sections patented to said company, and the even section being reserved to the State for the school fund.

Sec. 13. That this charter shall remain in force for the period of ninety-nine years from the date of the passage of this act.

Sec. 14. That this act take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER LXXIV.

An Act to authorize the Board of Trustees of School District No. 1., in the county of Gonzales, to levy a tax upon the property within said School District for the purpose of raising funds to pay the balance of the purchase money of the Public School building within said district, and for repairs on the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Board of Trustees of the School

District numbered one, in the county of Gonzales, be and are hereby authorized and empowered to levy a tax not to exceed one-fourth of one per cent. upon all the taxable property within the limits of said School District No. 1., in said Gonzales county, as now defined in the subdivision of said county into Public School Districts.

Sec. 2. That said tax, or so much thereof as shall be deemed necessary, shall be levied annually during the years 1875 and 1876, to raise a fund for the purpose of paying the balance due of the purchase money of the Public Free School Building and grounds, within said School District, known as the Gonzales College, and for the purpose of keeping said building and grounds in repair.

Sec. 3. That said tax shall be levied by said Board of Trustees, and assessed under their direction, and collected by the sheriff or tax collector of the county in the same manner that the State and county taxes are collected, and shall be paid by him into the county treasury, to be school fund for said School District No. 1.

Sec. 4. The said fund shall be paid out by the county treasurer, for the purposes hereinbefore mentioned, on the draft of the Board of Trustees of said School District No. 1, signed by the President of said Board, countersigned by the secretary, and approved by the President of the Board of School Directors of said Gonzales county.

Sec. 5. That this act have and take effect from and after its passage.

Approved March 13th, 1875.

CHAPTER LXXV.

An Act to authorize G. Schleicher, G. Hoffmann and L. H. Fitzhugh to erect and keep a boom across the Colorado river, at or near the city of Austin, in the county of Travis.

Section 1. Be it enacted by the Legislature of the State of Texas, That Gustave Schleicher, Gustave Hoffmann and L. H. Fitzhugh are hereby authorized to erect and keep a boom across the Colorado river, within three miles of the city of Austin, in the county of Travis, for the purpose of catching cross-ties and other timber floating in said river; provided, that said boom shall be so constructed

as to leave a passage on the west side of the channel for the passage of rafts, boats and other craft navigating or running upon the same.

Sec. 2. That this charter shall be in force for the period of fifteen years from and after the passage of this act, and that the boom herein provided for shall be and remain the property of the said Gustave Schleicher, Gustave Hoffmann and L. H. Fitzhugh, and shall be used only by them or such person or persons as may be authorized to use the same by their authority; provided, any person may use the said boom by paying to the proprietors such reasonable rates of toll as may be prescribed by the county court of Travis county, for the use thereof.

Sec. 3. Any person, willfully damaging said boom or any of its paraphernalia, or any thing pertaining to the same, its landing or bank on the east side of the said river, shall upon conviction before any court of competent jurisdiction be fined in double the amount of damages proven, to be paid to the party injured, and said fines shall be collected as other fines are collected.

Sec. 4. That this act shall take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER LXXVI.

An Act supplemental to and amendatory of an act entitled "An Act to incorporate the Saint Louis and Mexican Gulf Railroad Company, and to grant land to aid in the construction of the same."

Whereas, Said company have shown that it would be advantageous to the company to be permitted to grade one hundred miles of their road, instead of building fifty miles in the time as required by their charter; now, therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That if the Saint Louis and Mexican Gulf Railroad Company shall grade and prepare for laying down the rails one hundred miles of their said road within the time which by law they are required to build fifty miles of said road, then the grading of said one hundred miles shall be deemed by the State as a compliance with the building of the first fifty miles, as to time.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER LXXVII.

An Act to incorporate the Georgetown and Rockdale Rail Road Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That J. H. Shaffer, J. T. Coffey, N. L. Norton, J. C. S. Morrow, J. J. Dimmitt, F. L. Price, and T. P. Hughes, and their associates and successors, be and are hereby constituted a body corporate and politic, by the name and style of the "Georgetown and Rockdale Railway Company," and by said name shall have succession and a common seal, with capacity to make contracts, and in its corporate name to sue and be sued, to make by-laws for its general government and management, and generally to do and perform all such acts and things as may be necessary and proper for or incidental to the fulfillment of its obligations or maintenance of its rights under this act, consistent with the constitution of this State, and the United States; a majority of whom shall meet in the city of Georgetown within ninety days after the passage of this act, and elect such officers as may seem to them best to further the object of the corporation, and shall forthwith thereafter open books for the subscription of stock for a period of not less than two weeks.

Sec. 2. Said company is hereby authorized to construct, own and maintain, and to equip and operate a continuous line of railway to the town of Rockdale, in Milam county, of such gauge as the company may adopt; provided, the gauge shall not be more than four feet and eight and one-half inches, nor less than three feet; also, a telegraph line from Georgetown to Rockdale, with the privilege to connect with the International and Great Northern Railroad.

Sec. 3. That to effect the object of this incorporation, the said company shall have the right, in their corporate name, to purchase, own, use and sell lands or other property, personal or real, and to accept donations of lands or any other species of property whatsoever, or to receive the

same in payment for subscription of stock, and to issue stock therefor as contracting parties may agree upon; to fix the capital stock of said company at the sum of one million of dollars, with the privilege of increasing it to an amount not to exceed two millions of dollars, which shall consist of shares of one hundred dollars each, transferable as the by-laws of said company may direct. In the election of officers, each share shall entitle the owner thereof to one vote, which may be given by himself or proxy, authorized by written instrument. The board of directors shall have the right and power to require payment of the stock subscribed in such installments and at such times and places as the by-laws of the company may provide.

Sec. 4. The persons named in the first section of this act, or a majority of them, shall meet in the city of Georgetown within ninety days from the passage of this act, and temporarily organize this company hereby incorporated, by electing a president, vice-president, secretary, and a board of directors, which said board of directors shall consist of not less than seven nor more than nine persons. The president shall be ex-officio, a member of the board of directors. He shall have the power to appoint the engineer of the said railroad, with the power to remove him by and with the consent of the executive committee. The said officer shall continue in office for the period of not more than one year, within which time they shall permanently organize by calling together the stockholders in said company, and holding an election for a like number of directors as is named for the temporary organization. The said election may be called by the president, or, on his failure to do so, by any three of the directors. The directors shall have power to appoint an executive board, and confer on it such power as they may deem necessary, and such other officers and agents of the company as may be deemed necessary, or they may authorize and direct the president to do the same.

Sec. 5. That the right of way through the public lands of the State, along the line of said road, be and the same is hereby granted to said company, and to take from the public lands adjacent to said road, stone, earth, timber and other materials for the construction thereof; and the right of way is hereby granted to said company to the extent of two hundred feet in width where it passes over public lands, including all necessary lands for stations, buildings, work-shops, switches, side tracks, turntables and water

stations, not to exceed forty acres, at any point along said main trunk, and when the same shall pass through the lands of private persons, the right of way is hereby secured in accordance with the general laws of the State now in force. And said company is also authorized to cross other roads and highways in the same manner as is now provided by law.

Sec. 6. The said company may locate its principal office at any point along the line of said road as by them may be deemed best; but this shall not prevent the establishment of branch offices at such other places as said company may deem best for the transaction of its business. This act shall be deemed and held a general statute, and need not be especially pleaded in suits by or against the company.

Sec. 7. That said company shall have completed and in running order at least ten miles of their road in two years after the organization thereof, and complete said road to Georgetown within four years thereafter, and in default thereof shall forfeit all the franchises hereby granted, except as to the part in running order.

Sec. 8. The State of Texas hereby donates and grants to said company, out of any unlocated public domain of the State, sixteen sections of land, of six hundred and forty acres each, for each and every mile of railway completed and put in running order by them; and whenever any section of ten miles has been so completed, the said company may give notice thereof in writing to the Governor of the State, whereupon it shall be his duty to order the State Engineer, if there be one, but if there be no State Engineer, then the Governor shall appoint a competent engineer to examine said section and report, under oath; and if said section be found to be so completed and in running order, then the Governor shall immediately certify the same to the Commissioner of the General Land Office, whose duty it shall be immediately to issue to said company sixteen land certificates, of six hundred and forty acres each, for each and every mile of road completed. The certificates so issued shall be located in alternate sections; that is to say, for every sixteen sections located by said company for its own use, it shall also locate sixteen other sections for the State, and return the field notes and maps of the whole thirty-two sections to the Commissioner of the General Land Office, who shall number said sections so surveyed, and issue patents to said company for the sections numbered in

odd numbers, reserving the even numbers for the school fund; and said company shall alienate their lands acquired under this act, except so much thereof as may be necessary for the use and successful operation of their road as follows: one-fourth in eight years, one-fourth in twelve years, one-fourth in sixteen years, and the remaining one-fourth in twenty years from the date of the issuance of the certificates, in such manner that the whole shall pass out of the hands of the company within twenty years from the date of the certificates; provided, that said lands shall not be alienated to any other railway company or corporation, except so far as may be necessary for the conducting of the proper business of said corporation, nor shall said lands be conveyed to any person, firm or company in trust for said railway company; and provided, further, that the State shall not be liable for any deficiency of public domain, and no certificate issued under this act, which shall not be located by reason of such deficiency, shall ever constitute any claim against the State; and on failure to comply with the provisions of this section, the company shall forfeit all right to lands secured by this act, not alienated in accordance with the same; provided, further, that the said company shall be subject to the general laws of the State now in force, or that may hereafter be enacted, regulating railroads and the transportation of freight and passengers.

Sec. 9. That this act take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER LXXVIII.

An Act making an appropriation to pay J. W. Ferris for his services as special Judge in the case wherein the International Railroad was plaintiff and A. Bledsoe defendant.

Whereas, J. W. Ferris was commissioned by the Governor to act as special Judge in the Supreme Court, in the case wherein the International Railroad was the plaintiff and A. Bledsoe defendant, and

Whereas, Said special Judge was engaged in the performance of said service nearly one month; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of five hundred dollars be

and is hereby appropriated, out of any money in the treasury not otherwise appropriated, to pay J. W. Ferris for his services as special Judge in the case wherein the International Railroad was plaintiff and A. Bledsoe defendant.

Sec. 2. That the Comptroller is hereby authorized and required to issue his warrant upon the treasury for said sum of five hundred dollars in favor of said special Judge immediately after the passage of this act, which shall be paid by the Treasurer as in other cases.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER LXXIX.

An Act to incorporate the Hockley and Montgomery Railway Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That H. S. Woodward, L. M. Montgomery, C. W. Pescay, and C. M. Hite, of Texas, and Geo. D. Pritchett, of Louisiana, and assigns, be and they are hereby constituted a body corporate and politic by the name and style of the Hockley and Montgomery Railway Company, with the power to sue and be sued, plead and be impleaded, contract and be contracted with, and to adopt and have a corporate seal, and alter the same at discretion.

Sec. 2. The object of the railway company hereby incorporated is to construct, maintain and operate a railway on what is known as "Crew's Prismoidal One Rail Railway," beginning at the town of Hockley, in Harris county, running in a northerly direction to the town of Montgomery, in Montgomery county, by the route that may be the most convenient; and it shall have the power to accept any donations or grants of lands, and any other property whatsoever. The said company shall have the right to connect their road with any other road or roads that it may intersect or cross.

Sec. 3. That the capital stock of said company shall be fixed by the board of directors, not to exceed two hundred and fifty thousand dollars, to be divided into shares of one hundred dollars, which shares shall be transferable in such manner as the by-laws of the company may provide,

and in all elections of officers, each share of stock shall entitle the holder to one vote.

Sec. 4. The persons named in the first section of this act, or any three of them, shall meet in the town of Hockley within thirty days after the passage of this act, and temporarily organize said company by electing a president, secretary and treasurer. The said persons shall, at the same time, make by-laws, rules and regulations for the government and regulation of the business and affairs of such company, not inconsistent with the laws of this State and of the United States. The said persons shall, at the same time, provide for the opening of books of subscription to the capital stock of the company, and when fifty thousand dollars of stock shall have been subscribed, and ten per cent. of it paid thereon, the president of said company shall notify the stockholders to meet at the town of Hockley, in Harris county, when a permanent organization shall be had by electing a board of not less than five directors, a majority of whom shall constitute a quorum, who hold their offices for one year and until their successors are duly elected and qualified; and the said directors shall elect a president from their number, also a secretary and treasurer, and such other officers as may be necessary.

Sec. 5. That the right of way through the public lands of the State along the line of this road be and the same is hereby granted to said company to the extent of one hundred feet in width. When the line of said road shall pass through the lands of private persons, the right of way is hereby secured to said company in accordance with the laws of this State. And the said company is hereby empowered to bridge all streams on its route, so as not to impede navigation thereof.

Sec. 6. That the said company hereby incorporated shall construct at least ten miles of road within one year after the passage of this act, and have the whole line completed within two years thereafter; and in default thereof, shall forfeit all rights under the provisions of this act.

Sec. 7. That the said company shall have the right, and are hereby empowered, to mortgage its road, franchises, rights, privileges and property, and issue bonds secured thereby to aid in the construction and equipment of their said road.

Sec. 8. The said railway company shall enjoy and be subject to all the rights, powers, privileges and exemp-

tions under all general laws of this State in reference to railway companies, without regard to length of road.

Sec. 9. That the State of Texas hereby donates and grants to said company four sections of land, of six hundred and forty acres each, for each and every mile of road constructed and put in good substantial running order, and in accordance with the provisions of this act. That whenever said company shall complete and put in good substantial running order five miles of its road, it shall give notice of the same to the Governor, through its president, secretary, or some authorized agent; thereupon it shall be the duty of the Governor to appoint some skillful engineer, if there be no State engineer, to examine said completed road, and make report thereon, under oath, to the Commissioner of the General Land Office, and it shall be the duty of said Commissioner, if said road is shown to have been constructed in accordance with this act, to issue to said company four certificates, for six hundred and forty acres of land each, for each and every mile of road so constructed. That all land certificates that shall be issued to said company under the provisions of this act shall be located and surveyed in alternate sections, the even numbers being reserved to the school fund; provided, that the State of Texas shall in no event be responsible for a deficiency in the public domain; provided, further, that no certificates unlocated on account of the previous exhaustion of the unlocated public domain, shall ever constitute any claim against the State of Texas. That said company shall alienate the lands herein donated to them as follows: one-fourth in eight years, one-fourth in twelve years, one-fourth in sixteen years, and one-fourth in twenty years; provided, that said lands shall not be alienated to any other railroad corporation, nor to any person or firm in trust for said company, nor to any firm or corporation of which any stockholder of this company is a member.

Sec. 10. That this act take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER LXXX.

An Act to incorporate the Travis Rifles of the City of Austin.

Section 1. Be it enacted by the Legislature of the State of Texas, That M. D. Mather, A. S. Roberts, L. E.

Edwards, Benj. Honnett, W. P. Gaines, S. H. Wildy, H. L. Haynes, their associates and successors, shall be and are hereby created and constituted a body corporate and politic, under the name and style of the "Travis Rifles," and by that name shall have succession and a common seal, with power to sue and be sued, plead and be impleaded in all the courts of this State, to purchase, hold and sell property and estate of every description whatever, and to alienate, convey, mortgage, or in any other manner dispose of the same in like manner as a natural person may or can acquire and dispose of similar property and estate; to ordain and establish a constitution and by-laws for the government and regulation of its affairs, and to alter and amend at will; that said company shall not consist of less than twenty-five nor more than one hundred men; provided, said corporation shall only own and hold such real and personal property as may be necessary for the purpose and object of its organization.

Sec. 2. That said company shall have power to provide by their constitution and by-laws for courts of investigation and courts-martial, to try all violations of their constitution, by-laws, rules and regulations on the part of their own members, and to punish such violations by reprimand, suspension, expulsion or fine.

Sec. 3. The commissioned officers of said company shall consist of one captain, one first lieutenant and two second lieutenants.

Sec. 4. The non-commissioned officers of said company shall be one orderly sergeant, one ensign, four duty sergeants and four corporals.

Sec. 5. The commissioned officers of said company shall be elected annually, on the first Tuesday in January; the returns shall be made by the orderly sergeant under the seal of the company to the Governor of the State, who shall commission such officers immediately upon the receipt of the returns of said election.

Sec. 6. That the officers and members of this company shall be exempt from militia duty and from all battalion or regimental reviews or inspections.

Sec. 7. That said company shall be entitled to and receive from the State all such arms, ammunition and equipments as may be necessary for drills, parades, target practice, and service, so as to enable it to be at all times in a state of efficient readiness; and the requisition therefor,

made by the captain of said company upon the Governor or his Adjutant General, shall be filled out of any military supplies that the State may own, or may be entitled to from the General Government, and the officers of said company shall be jointly and severally liable for loss or destruction of such arms, ammunition and equipments, caused by negligence in the use and care of the same, and suit may be instituted at the city of Austin, in any court of competent jurisdiction; provided, that the Governor or Adjutant General shall have the right at any time to refuse to furnish arms and ammunition upon the requisition of the captain of said company, and may at any time demand of the captain of said company a surrender of all the arms, ammunition and equipments furnished said company by the State.

Sec. 8. That said company may provide for honorary members, as distinguished from actives, subject to such rules and regulations as they shall see proper to impose.

Sec. 9. That the commanding officer, within one week after each annual election, shall file with the Secretary of State a full and accurate list of all the active officers and members of said company.

Sec. 10. All property of whatever character belonging to the company shall be vested in the commissioned officers of the same, who hold in trust for the company.

Sec. 11. Said company shall at all times be subject to the orders of the Governor, for the suppression of organized revolt or insurrection against the regularly constituted authorities of the State, and for the purpose of preventing the invasion of the State by a public enemy; provided, that said company shall not be ordered to any point out of the county of Travis, except in cases of the invasion of the State by a public enemy.

Sec. 12. That this act take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER LXXXI.

An Act to amend an act amendatory of and supplementary to "An Act to incorporate the Pacific and Great Eastern Railway Company," passed May 31st, 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That section five of the act to which this

is amendatory shall be and the same is hereby amended, so as hereafter to read as follows: Section 5. The Pacific and Great Eastern Railway Company is hereby authorized to lay out, locate and construct, own, furnish, maintain and equip, operate and enjoy a continuous line of telegraph and railway, together with all the appurtenances to the same belonging, of not less than thirty-six inch gauge, beginning at Sherman, in the county of Grayson, thence to Whitesboro, in Grayson county, thence to Gainesville, in Cook county, thence to Decatur, in Wise county, thence to Weatherford, in Parker county, and establish and maintain a freight and passenger depot within one-half mile of the public square or principal business part of said towns respectively; provided, that said towns shall furnish to said company free of charge a sufficient quantity of land on which to establish depots, switches, turn-outs and right of way through their corporate limits respectively, not less than five nor more than fifteen acres, where the same may be designated by said company; and from said town of Weatherford, in a south or southwesterly direction, on the most expedient route practicable across the State of Texas to the Rio Grande river, at the most practicable crossing at or near the point on said river known as Presidio del Norte, to be selected and determined upon by said company as in their judgment affording the best facilities for the construction of a railroad from such point on said river through the Republic of Mexico.

Sec. 2. That section four of the act to which this is amendatory shall be and the same is hereby so amended as to read as follows, to-wit: Section 4. That each grant, right and privilege herein contained, are so made and given to and accepted by the Pacific and Great Eastern Railway Company, as now organized in this State, upon the following conditions, namely: That said company shall commence the work and complete one hundred miles of said road within four years from the first day of January, A. D. 1876, and one hundred miles every four years thereafter until their said road shall be completed through the State of Texas; provided, the forfeiture herein, and in the original acts provided for, shall only apply to so much of said road as may not be built within the time specified in this section.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER LXXXII.

An Act to validate the official acts of J. J. Metcalf, surveyor of Palo Pinto Land District.

Section 1. Be it enacted by the Legislature of the State of Texas, That the official acts of J. J. Metcalf, as the surveyor of Palo Pinto Land District, be and the same are hereby validated and made legal.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER LXXXIII.

An Act for the relief of Captain Peter Tumlinson.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Comptroller be and he is hereby required to draw his warrant against the Treasurer of the State, to be funded as other suspended claims, in favor of Captain Peter Tumlinson for the sum of fourteen hundred and forty-five dollars, or so much thereof as may be necessary, to refund to Captain Tumlinson the money expended by him for the support of his company of rangers on the Rio Grande and west of San Antonio prior to the year A. D. 1861, including interest at the rate of eight per centum from the date of such expenditures; provided, however, that Captain Tumlinson shall be required to produce proper and satisfactory vouchers to the Comptroller showing that such moneys was for the benefit and support of said ranging company, and that said moneys had not been previously refunded.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER LXXXIV.

An Act to incorporate the "Waco Greys," of the city of Waco,
McLennan County.

Section 1. Be it enacted by the Legislature of the State of Texas, That R. S. Ross, G. B. Gurley, W. W. Sturgis, J. S. Moore, G. W. Cockerham, C. T. Wallace, A. J. Willis, William Glenn, R. A. Anderson, Jas. B. Willis, John Robin, and others, who are or may hereafter become associated with them in said company, and their successors, be and are hereby constituted a body corporate and politic, under the name and style of the "Waco Greys," and by that name said corporation shall have succession, and be capable, in law, to sue and be sued; plead and be impleaded; to ordain a constitution and by-laws for their government, not to conflict with this charter or any law of this State; and they shall have a common seal, with any design they may choose, and to purchase, hold and sell, real estate and personal property, in any amount not exceeding one hundred thousand dollars; and the said company shall elect their own officers, trustees and directors; and that there shall never be a less number of men in said company than twenty-five, nor a greater number than one hundred.

Sec. 2. The officers and members of this company shall be exempt from common military drills, and jury duty, except for capital offenses.

Sec. 3. The said company shall have power to provide, by their constitution and by-laws, for courts of investigation and courts-martial, to try all violations of their constitution, by-laws, rules and regulations, by any of their own members, and to punish such violations by suspension, expulsion or fine, not to exceed one hundred dollars.

Sec. 4. The said company shall have power to collect all fines legally imposed by virtue of this charter, by suit in the court of the justice of the peace of precinct number one, of McLennan county; and the certificate of the commanding officer of the company, attested by the secretary and authenticated by the common seal of the company, shall be sufficient evidence of the legal imposition of such fine, and judgment shall be rendered thereon, and execution issue as in other cases.

Sec. 5. The commissioned officers of this company shall be one captain, one first lieutenant, and two second lieutenants, to be commissioned by the Governor, subject, when ordered on duty, to be trained and governed by the militia laws of the State, and the rules and regulations governing the same.

Sec. 6. Whenever said company shall be called into active service by the Governor, or other person having lawful authority to call out the State militia, they shall be entitled to receive such camp and garrison equipage as is usually allowed and furnished to the best military companies by the government of this State.

Sec. 7. This company shall at all times be subject to the civil authorities of the State, and to the orders of the Governor of the State, in case their services are required.

Sec. 8. The commanding officer of the company shall, on the first day of January in each year, file in the office of the clerk of the district court a complete list of all the officers and members of the company at that date.

Sec. 9. The non-commissioned officers of this company shall be one orderly sergeant, four duty sergeants, and four corporals.

Sec. 10. The commissioned officers of the company shall be elected annually on the first Monday in June, or as soon thereafter as practicable, and the returns of the election shall be made by the orderly sergeant under the seal of the company, to the chief justice of McLennan county, directed to the Governor of the State, who shall commission such officers as soon as he receives the returns of the election.

Sec. 11. All property, whether real or personal, belonging to the company, shall be vested in the commissioned officers of the same, to be held in trust for the company.

Sec. 12. This act shall take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER LXXXV.

An Act to amend the fifteenth section of "An Act to incorporate the Sherman, Wichita and Pan Handle Railway Company, and to grant land to aid in the construction thereof," passed May 22d, 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That the fifteenth section of the above recited act be so amended as hereafter to read as follows, to-wit: "Section 15. That the gauge of this railway shall not be less than three feet; and said railway shall be substantially built and fully equipped for passenger travel and for the transportation of freight."

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER LXXXVI.

An Act to legalize the official acts of J. S. Perry, Notary Public of Milam County.

Section 1. Be it enacted by the Legislature of the State of Texas, That all the official acts of J. S. Perry, Notary Public of Milam county, done by virtue of a commission issued to him as such by E. J. Davis, former Governor of the State of Texas, and in conformity to law, be and the same are hereby made as legal and valid as if he had been confirmed by the Senate.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER LXXXVII.

An Act for the relief of J. A. Carroll.

Section 1. Be it enacted by the Legislature of the State of Texas, That J. A. Carroll, of Denton county, be and is hereby allowed the sum of two hundred and one 18-100 dollars for service as special Judge of the Twelfth

Judicial District, of the State of Texas, for twenty-one days at nine and 58-100 dollars per day, rendered during the months of June and October, A. D. 1874, and that the said sum of two hundred and one 18-100 dollars be and is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay said claim, and that a certified copy of this act shall be sufficient authority for the Comptroller to audit said claim, and to draw his warrant upon the State Treasury for the same.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 13th, 1875.

CHAPTER LXXXVIII.

An Act to repeal an act entitled "An Act to re-incorporate the city of Corpus Christi," approved May 22, 1873, and all other acts and laws relating to the incorporation and franchises of said city.

Section 1. Be it enacted by the Legislature of the State of Texas, That an act entitled "An Act to incorporate the city of Corpus Christi," approved May 22, 1873, and all other acts or laws relating to the incorporation and franchises of said city, be and the same are hereby repealed.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 15th, 1875.

CHAPTER LXXXIX.

An Act for the relief of Oscar M. Jackson.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Comptroller of the State be authorized and required to draw his warrant on the Treasurer in favor of Oscar M. Jackson, for the sum of four hundred and ninety dollars, the said sum being in full for his services and horse and arms furnished in the Cortina war, which amount shall be funded as other claims against the State.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 15th, 1875.

CHAPTER XC.

An Act amendatory of supplementary to the several acts in relation to the incorporation of, and granting aid to, the Texas and Mexican Pacific Railroad Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Texas and Mexican Pacific Railroad Company is hereby authorized and empowered to construct their said railroad of any gauge as to said company seem best, not less than three feet gauge; and that the time within which said company is now required by law to construct their said railroad, or any section thereof, is hereby extended and enlarged for an additional period of one year.

Approved March 15th, 1875.

CHAPTER XCI.

An Act to be entitled an act to authorize the county court of Travis county to issue and dispose of bonds of said county for the purpose of erecting a courthouse and jail, in accordance with the provisions of "An Act to lease to the use of Travis county certain land in the city of Austin, on which to erect a courthouse and jail, and to enable said county to build the same," approved May 4th, 1874, and to provide for the redemption of said bonds.

Whereas, the Legislature of the State of Texas did, by an act passed May 4th, 1874, lease to the county of Travis the north half of block No. 123, in the city of Austin, for a term of ninety-nine years, on condition that said county shall construct thereon within five years from the passage of said act a courthouse and jail, to cost not less than ninety thousand dollars; and

Whereas, the said county court of Travis county cannot comply with the conditions and requirements of the aforesaid act without the issuance of the bonds of the county; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the county court of Travis county shall be and is hereby authorized to issue the bonds of said county to an amount not exceeding one hundred and fifty thousand dollars, to be used in the construction of a courthouse and jail for said county, and for no other purpose.

Sec. 2. That the said bonds shall be issued in sums of one thousand dollars each, payable twenty years after their date, but redeemable at the pleasure of said county, at any time after five years from their date; they shall bear interest at the rate of ten per cent. per annum from their date, payable semi-annually, on the first day of January and of July of each year, either in the city of Austin or in the city of New York, at the option of the person to whom they are sold; they shall have coupons attached for the semi-annual interest; the bonds shall be signed by the presiding justice of said county, sealed with the seal of said court, and shall be countersigned and registered by the clerk of the district court of said county, and shall also be countersigned and registered by the Comptroller of Public Accounts of the State of Texas; the coupons shall be signed by the presiding justice of said county, and by the clerk of the district court of said county.

Sec. 3. That before said county court shall issue any of said bonds, it shall levy a special ad valorem tax upon all property in said county, the value of which shall be ascertained by reference to the assessment rolls of the State and county for the year in which this tax is levied; and also a special tax upon all other objects of taxation for county purposes, which shall bear the same proportion in amount to the ordinary tax upon such objects for county purposes that the above special ad valorem tax does, in amount to the ad valorm tax for ordinary county purposes; the said taxes shall be sufficient in amount to pay for one year the semi-annual interest, and a sinking fund of two per cent. upon the principal of all the bonds, which it proposes to issue during the current calendar year; and at the first meeting of said court in each year thereafter, it shall levy a like special tax upon said property and upon said objects of taxation, which shall be sufficient in amount to pay for one year the semi-annual interest and a sinking fund of two per cent. upon the principal of said bonds. which have been issued and which it proposes to issue during the current year; such tax shall continue to be

levied each year at the first meeting of the county court, until the whole of the principal and interest of said bonds shall have been paid; the special taxes shall be used for no other purpose except the payment of the interest, sinking fund and principal of said bonds, until they are fully paid; the amount collected for the said sinking fund shall, during each year, be used in the purchase of said bonds, and whenever there shall be in the county treasury any amount of said taxes beyond what is needed for the prompt payment of interest upon the bonds issued, the same shall be used in the purchase of said bonds, and all of said bonds so purchased shall be cancelled and destroyed, and a registry shall be kept in the county court of all bonds so cancelled and destroyed.

Sec. 4. That the said taxes shall be collected and paid into the county treasury in the same manner as other taxes are required by law to be collected.

Sec. 5. That the county court shall not allow or pay exceeding the following compensation for assessing, collecting, receiving and disbursing the proceeds of said bonds, and the proceeds of said special taxes, to-wit: for assessing said taxes there shall not be allowed and paid exceeding one-half of one per cent on the amount of such assessment; for collecting said taxes, there shall not be allowed and paid exceeding one-half of one per cent. upon the amount of the taxes collected; for both receiving and paying out the amount of said taxes, the county treasurer shall not be allowed and paid exceeding one-half of one per cent. upon the amount received; for both receiving and paying out any money paid into the county treasury as the proceeds of any such bonds that may be sold, the county treasurer shall not be allowed and paid exceeding one-quarter of one per cent. upon the amount that may be so received.

Sec. 6. That in case the said county court shall consider it necessary to employ an agent to sell any of said bonds for money, it shall not allow and pay for such service exceeding two and one-half per cent. upon the net proceeds of the bonds so sold.

Sec. 7. That for the services herein required of the county court, or any member thereof, or of the clerk of the district court, or the Comptroller of Public Accounts, no compensation shall be allowed and paid, but this shall

not interfere with the provisions heretofore contained in regard to the assessment.

Sec. 8. That this act shall take effect and be in force from and after its passage.

Passed March 13th, 1875.

CHAPTER XCII.

An Act to authorize the county court of Bexar county to levy taxes.

Section 1. Be it enacted by the Legislature of the State of Texas, That the county court of Bexar county is hereby authorized to levy occupation taxes equal in amount to those levied by the State, and to have the same collected as is required by law.

Sec. 2. Should the taxes levied in accordance with the preceding section of this act and the general laws of the State be insufficient to meet the necessary current expenses of the county of Bexar, then the county court of said county is hereby authorized to increase the ad valorem tax authorized by the general laws, to an amount not exceeding that levied by the State.

Sec. 3. That this act be in force from and after its passage, and continue in force until the thirty-first day of December, 1876.

Approved March 15th, 1875.

CHAPTER XCIII.

An Act to incorporate the Austin Mineral and Western Railway Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That Thos. G. McGehee, M. D. Short, S. L. Shelenbarger and James M. Hawkins, of the State of Texas, and O. C. Nichols and H. C. Young, of the city of Philadelphia, Pennsylvania, be and they are hereby appointed commissioners to open books and receive subscriptions to a capital stock of a corporation to be styled the Austin Mineral and Western Single Track or Narrow Gauge Railway; a majority of said commissioners shall

constitute a quorum to do business, and shall meet at such place as may be designated within six months after the approval of this act, or as soon after as a majority thereof may agree upon, and they may appoint one or more of their number, or such other agents as they may select to open books at such places as they may direct to receive subscriptions for the stock of said company; and said commissioners shall hold meetings from time to time as their business may require, until directors shall be elected as hereinafter provided for. In receiving subscriptions to the capital stock, they shall require five per centum thereof to be paid in at the time of subscribing, and any stock upon which the said five per centum is not paid shall be void, and the subscribers shall not be entitled to vote at any meeting of stockholders.

Sec. 2. The subscribers to said capital stock, whenever they shall have selected directors, are hereby created and established a body corporate and politic, under the name and style of the "Austin Mineral and Western Railway Company," with powers to do and perform all things necessary and proper to the maintenance of its rights under this act, and not inconsistent with the laws of the State of Texas; to have and to hold real estate necessary for the construction, operation and maintenance of its road, to sue and be sued, to plead and be impleaded.

Sec. 3. The capital stock of said company shall not exceed three million dollars, to be divided into shares of one hundred dollars each, each share to entitle the owner thereof to one vote, in person or by proxy; a majority of votes cast shall govern in all cases not otherwise provided by law, and said stock shall be deemed personal estate, transferable only on the books of the company by person or by proxy.

Sec. 4. The direction and control of the affairs of the said company shall be vested in a board of five directors, and they shall be chosen by the stockholders at their annual meetings, the first of which shall be holden within one year after the passage of this act, at such time and place within the State as the corporation herein named shall designate; said directors shall elect one of their own body to be president of said company, shall fill vacancies in their board, appoint a secretary and a treasurer, and such other officers as they may deem necessary, and require bond, and make all rules for holding meeting and for their government;

a majority of the directors shall constitute a quorum to do business, and shall have the power of a full board; all conveyances or contracts in writing, signed by the president and countersigned by the secretary and other officers duly authorized by the board of directors, under seal of the company, when the same is in execution of an order of the board, shall be binding and valid.

Sec. 5. That so soon as one hundred thousand dollars of the capital stock of the said company is subscribed, they shall cause the first election of directors to be held, first giving notice of the time and place of such election by publication in one or more newspapers in the county or counties through which the road shall run; and when said directors shall be organized, the said commissioners shall pay into the treasury all moneys received upon subscription, and shall deliver to the president all books and other property belonging to the company.

Sec. 6. The said "Austin Mineral and Western Railway Company" shall be required to construct and put in running operation ten miles of its said road within two years after the granting of this charter.

Sec. 7. That said company, when it shall be organized, shall be and it is hereby invested with the right of locating and to locate, constructing, owning, operating and maintaining a railroad and telegraph line, beginning in or near the city of Austin, in the county of Travis, and running thence by the most direct and practicable route through the counties of Travis, Llano, Mason, Menard or Concho, to or near what is now known as Fort Concho, with the privilege of connecting with any other railroad or roads at their intersection with the said road.

Sec. 8. That said company shall be entitled to receive from the State of Texas a grant of sixteen sections of land for every mile of completed road, constructed and put in good running order in this State; and said company shall alienate the lands hereby granted and donated, except so much as may be necessary for the ordinary use and operation of said road, as follows, viz: One-fourth in eight years, one-fourth in twelve years, one-fourth in sixteen years, and one-fourth in twenty years from the date of the location of the certificates, in such manner that the whole of such lands shall pass out of the hands of said company within twenty years from the date of location; provided, that said lands shall not be alienated to any other railroad

company or corporation, or to any individual firm or company in trust for said railroad company, or to any firm or company of which any officer or stockholder of said railroad company is a member; and a failure to comply with the provisions of this act and the general laws of the State on the subject, or a violation of either of them, shall work a forfeiture of all the benefits of this act; provided further, that the State of Texas shall never be liable for any deficiency of unlocated public domain. That whenever said company shall have completed and put in good running order, as provided in this act, ten miles or more of its road, they may give notice thereof to the Governor of the State, whose duty it shall be to appoint some skillful and competent person to examine said completed road, and if upon the report of said person, under oath, it shall appear that said road has been constructed and equipped in a good and substantial manner, and in accordance with the provisions of this act in the general laws in this State at the time regulating railroads, thereupon it shall be the duty of the Commissioner of the General Land Office to issue to said company certificates, for six hundred and forty acres each, to the amount of sixteen sections for each and every mile so completed and reported on, which said certificates shall be located and surveyed in alternate sections; the field notes and maps returned to the General Land Office, and the odd sections patented to said company, and the even sections reserved to the State for the school fund. Expense of engineer to be paid by said company.

Sec. 9. That the said "Austin Mineral and Western Railway Company" shall be governed by the general railroad law in its charges for freight and passage, in its securing and locating the right of way, they shall be entitled to take, as provided, lands not exceeding two hundred feet wide by compensating the owners thereof.

Sec. 10. This company shall be subject to all of the general laws now in force, or which may hereafter be in force, with regard to running over the road of one company by another, and may connect with another road in such manner as may be best, and most certainly secure the construction of their road; provided, that when said company shall consolidate with or adopt the line of any road already constructed, and which constructed road has received the land subsidy, no other subsidy in lands for such constructed road shall be granted by this charter.

Sec. 11. That said company shall have power to borrow money and issue its bonds, with or without mortgage; provided, that the same be done in conformity to the laws of the State of Texas, and the by-laws of the company.

Sec. 12. This charter shall remain in force for the period of ninety-nine years from the time of its completion.

Sec. 13. The failure of the company to comply with the requirements of this charter shall operate a forfeiture of all that part of the road not then completed.

Sec. 14. This act to take effect and be in force from and after its passage.

Approved March 15th, 1875.

CHAPTER XCIV.

An Act to be entitled An Act to prohibit the sale or disposal of intoxicating liquors within four miles of White's mill and school-house, in Hill county, and Concord school-house, in Anderson county.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be unlawful for any person or persons to dispose of any intoxicating or spirituous liquors, by sale or otherwise, within four miles of White's mill and school-house, in Hill county, and Concord school-house, in Anderson county.

Sec. 2. That any person or persons violating the provisions of this act shall, upon conviction thereof in any court of competent jurisdiction, be fined in any sum not less than ten dollars, nor more than one hundred dollars, for each and every offense.

Sec. 3. That this act shall take effect and be in force from and after the first day of May, 1875.

Approved March 15th, 1875.

CHAPTER XCV.

An Act to authorize the County Court of Collin county to issue bonds.

Section 1. Be it enacted by the Legislature of the State of Texas, That the county court of Collin county, for the purpose of securing the necessary funds to complete

the courthouse now in progress of erection in the city of McKinney, in the county of Collin, be and is hereby authorized to issue interest coupon bonds of the county, payable in twenty years; the whole of said bonds when issued, not to exceed in amount sixty thousand dollars; said bonds to be issued respectively for any amount, from one hundred dollars, in even hundreds, up to one thousand dollars; they shall bear annual interest of ten per centum which shall be payable annually, either in the cities of McKinney, Galveston or New York, as said county court may in said bonds respectively elect and designate; provided, that the bonds authorized by this act shall not be sold for less than eighty-five cents on the dollar.

Sec. 2. That before placing any of said bonds on the market for sale, they shall be signed first by the presiding justice, and countersigned by the district clerk of Collin county, with the seal of the district court of Collin county impressed thereon, and by the said presiding justice forwarded to the Comptroller of the State to be countersigned by him, with a certificate from him setting forth the amount of taxable property in Collin county, according to the return in his office; also, the total indebtedness of the county as certified to him by the presiding justice and district clerk thereof, and the whole amount of bonds issued under this act; the annual ten per cent. coupons shall be attached to each of said bonds.

Sec. 3. That to meet the interest on said bonds and create a sinking fund for the final redemption of the principal, said county court of Collin county be and is hereby authorized to have levied and collected, annually, a tax on the taxable property within the county, of not exceeding one-fifth of one per cent.; provided, that the levy of each succeeding year shall be no more, according to the assessment of the preceding year, than may be necessary to meet the current interest for the year, and set apart a sinking fund which, at the maturity of the bonds, shall be sufficient to pay the whole of the principal.

Sec. 4. That the amounts annually collected as a sinking fund may be invested from time to time by the county court, in any manner deemed advisable by the county court; provided, the same shall be secured by mortgages or legal liens on real estate in the city of McKinney, or county of Collin.

Sec. 5. That the sinking fund created by this act shall

be used by the treasurer of said county, under the direction of the county court, to purchase in said bonds, or any of them, when it shall be sufficient to do so; and when the treasurer shall buy in a bond, he shall endorse across the face of the bond the words, "purchased for Collin county with the sinking fund provided by law," and in addition thereto, state the amount paid therefor, and he shall, from time to time, report to the county court his action and the bonds thus purchased.

Sec. 6. The county court shall cause all the bonds purchased to be entirely destroyed, and shall provide a well bound book for the district clerk, who shall keep in it a true record of all the actions and orders of the county court relating to these bonds, and a memorandum of the number and denomination of all bonds issued, to whom sold, at what price sold, as well as of all bonds purchased, from whom purchased, and when destroyed.

Sec. 7. That after the sale of any of said bonds this act shall be irrevocable until the whole of said bonds shall be redeemed and paid off, according to their face; provided, that the county court of Collin county may at an earlier time redeem any or all of said bonds, with the consent of the holder or holders thereof, in the manner as prescribed in section five of this act, and not otherwise.

Sec. 8. That this act take effect and be in force from and after its passage.

Passed March 13th, 1875.

CHAPTER XCVI.

An Act to legalize the election incorporating the town of Luling, in Caldwell county, Texas, and for the election of officers for said town.

Section 1. Be it enacted by the Legislature of the State of Texas, That the election to incorporate the town of Luling, and for the election of municipal officers of said town, held on the — day of October, A. D. 1874, at which W. H. McClelland was elected mayor; J. N. Stagner, J. L. Cunningham, L. C. Wilder, Mike Tierney and Jesse R. Bond, were elected Aldermen, and John Painter was elected

town constable, be and the same is hereby declared to be as legal and valid as if no irregularities had occurred in incorporating said town.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 15th, 1875.

CHAPTER XCVII.

An Act to authorize the county of Marion to purchase or build a courthouse and to provide the means to pay for the same, and to dispose of the one now used by said county.

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever, upon the petition of not less than one hundred citizens and property owners of the county of Marion, to the county or police court of said county, asking that a vote be taken by the legal voters of said county to take opinion of said county, whether or not said county shall purchase or build another courthouse more convenient to the business portion of the city of Jefferson, in said county; and upon the presentation of said petition, said court shall order an election to be held within a period of forty days next after the presentation of said petition, and shall cause the same to be published at least four weeks next preceding said election, in some newspaper, published in said city, stating the time, place, and purpose of said election. The said election shall be held and managed as required by law for general elections, and returns thereof shall be made by the manager of the same, within ten days, to the clerk of the district court of said county; said returns shall be canvassed by the said clerk and the presiding justice, and the result thereof shall be recorded in the minutes of the county court.

Sec. 2. That if it shall be ascertained that a majority of the voters who shall have voted at said election, have voted for a courthouse, the county or police court shall, at its next regular meeting, appoint three commissioners, whose powers and duties shall conform in all respects to the powers and duties as prescribed for such commissioners under "An Act entitled an act to authorize the county of Marion to issue interest bearing bonds for the building of a

courthouse and jail in said county," approved February 22, 1873, so far as the same refers to the erection of a courthouse; provided, the said bonds provided for in said act shall conform in all respects to the bonds named in said act, except that the sum shall not exceed fifty thousand dollars; and that the terms, provisions and regulations of said act shall be in force for the government, guidance and control of all the officers of the said county for the levy and assessment of taxes to pay the interest and sinking fund, to meet the payment of the second series of bonds, and in all other matters pertaining thereto. And after said new courthouse is provided, the records and courts of the county may be removed thereto, and the county court shall make such disposition of the one now used as to the said court may seem best.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved March 15th, 1875.

CHAPTER XCVIII.

An Act providing for the revision of the registration lists of Bexar county for special elections.

Section 1. Be it enacted by the Legislature of the State of Texas, That ten days before any special election in the county of Bexar, as authorized by "An Act to authorize counties, cities and towns to aid in the construction of railroads and other works of internal improvements," approved April 12, 1871; it shall be the duty of the justice of the peace of said county, or any three of them, to revise the registration lists of said county, and strike therefrom the names of all such persons as may be dead, or may have removed, or who may be known to be absent from said county; and it shall be the duty of the district clerk to deliver to the sheriff of said county, and said sheriff shall deliver, or cause to be delivered, to the presiding officer of each election precinct, the list revised as aforesaid; and that the persons whose names are contained in such revised lists shall be regarded as the qualified voters of said county, and be entitled to vote at such special elections.

Sec. 2. That this act shall take effect and be in force from and after its passage.

Approved March 15th, 1875.

CHAPTER XCIX.

A Bill to be entitled an act to amend the eighteenth section of an act to incorporate the Sherman, Tyler and Henderson Railway Company, and to grant lands to aid in the construction thereof, passed May 6, 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That section eighteen of the above recited act be so amended as to hereafter read as follows: Section 18. That this railway shall be constructed of a width of gauge not less than three feet; said railway shall be substantially built and fully equipped for freight and passenger travel.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved March 15th, 1875.

CHAPTER C.

An Act to incorporate the Jefferson, Linden and Texarkana Railway Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That Wm. M. Harrison, J. L. Bateman, H. P. Mabrey, W. L. Crawford, D. B. Culberson, E. W. Taylor, W. H. D. Hunt, A. C. Smith, Wm. Lambeth, Jas. Lockett, J. L. Whittle, A. F. Crow, B. T. Estes, Frank Storey, A. L. Ghio, W. W. Watkins, Jas. Hubbard, W. W. Dillard, and their associates and successors, shall be and are hereby created a body politic and corporate, under name and style of "The Jefferson, Linden and Texarkana Railway Company," and as such shall have succession for ninety-nine years, and a common seal; shall have the power as such corporate body, in the said corporate name, to sue and be sued; plead and be impleaded; to receive such grants, gifts and concessions of land and other property as may aid in the construction of said railway, or to maintain the same; and to make all such by-laws, rules

and regulations as may be necessary for the government of said company, not inconsistent with the laws of the State.

Sec. 2. The persons named in the first section, or a majority of them, may, at any time after the passage of this act, organize the said company by the election of a president, vice-president, and such number of directors as to them may deem best, and appoint such other officers as may be necessary for the promotion of the objects of this act, and shall construct at least twenty miles of their said railway within three years from the passage of this act, and ten miles every year thereafter.

Sec. 3. Said company is hereby authorized and empowered to construct, own and maintain a continuous line of railway of a gauge not less than three feet, together with a telegraph line from the city of Jefferson, in Marion county; thence via Linder and Douglasville, in Cass county; thence to Texarkana, in Bowie county; and shall establish and maintain passenger and freight depots within the limits of said towns, and may issue such bonds and other obligations as may be deemed necessary to promote the construction and maintenance of such railway. Work may be commenced and prosecuted from any point or points of the said line. The capital stock of said company may be in such amount as the stockholders may deem best, not to exceed two millions of dollars, and shall be divided in shares of one hundred dollars each, and each share shall entitle the holder thereof at all elections to one vote, which may be cast by the owner or by a proxy, authorized by a written instrument.

Sec. 4. That said company is hereby authorized to mortgage their said railway and property and franchises, upon such terms, conditions and restrictions as the said company may deem best, and may accept in payment for such stock whatever said company deem to the best interest of the same.

Sec. 5. That said company is hereby granted a right of way not exceeding two hundred feet in width, and in case the owners of land over and along which said line shall run, shall not release the same to said company, the same may be required under the provisions of the general laws of this State; and shall be entitled to receive a grant of land of sixteen sections of six hundred and forty acres per mile on each complete section of ten miles of their said railway, which may be obtained, located and held in accord-

ance with the provisions of the general laws of this State in relation to the grant of lands to railway companies to aid in the construction of railroads; provided, the State shall in nowise be held liable for any deficiency of the public domain; and the said company shall alienate their lands as now required by the general law of the State.

Sec. 6. The principal office of said company shall be situated in the said city of Jefferson, and in all suits against the company, it shall be held sufficient service of process, if legal service be had, on the president or secretary thereof.

Sec. 7. That said company shall never consolidate its line with that of any parallel or competing line.

Sec. 8. Should said company fail to construct its road within the time prescribed in section two, it shall forfeit all rights acquired under this act, except upon completed road.

Sec. 9. That this act shall take effect and be in force from and after its passage.

Approved March 15th, 1875.

THE STATE OF TEXAS, }
Department of State. }

I, A. W. DeBerry, Secretary of State for the State of Texas, do hereby certify that the Acts contained in this volume are true copies taken from the originals in the Department of State, with which they have been carefully compared. And I further certify that the second session of the Fourteenth Legislature of said State commenced at the city of Austin on Tuesday, the twelfth day of January, A. D. eighteen hundred and seventy-five, and adjourned on the fifteenth day of March, A. D. eighteen hundred and seventy-five.

In testimony whereof, I have hereunto signed my name, and caused the seal of the Department of State
[Seal.] to be affixed, at the city of Austin, this the twenty-third day of March, A. D. eighteen hundred and seventy-five.

A. W. DEBERRY,
Secretary of State

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ORDINANCES

ADOPTED BY THE

CONSTITUTIONAL CONVENTION

OF

THE STATE OF TEXAS

**CONVENED AT THE CITY OF AUSTIN,
SEPTEMBER 6, 1875.**

1876

ORDINANCES.

AN ORDINANCE

In Relation to Railroads.

Be it ordained by the People of Texas in Convention assembled, That in view of the financial misfortunes now existing, no railroad company chartered or holding grants under this State, which has heretofore organized and commenced work in good faith, shall be considered as having lost any of its rights, privileges or grants prior to the close of the next session of the Legislature of this State by virtue of lapse of time between now and that time; and said Legislature shall have the power, if deemed compatible with the public interest, to grant such relief in time as may be deemed best for the interests of the State; provided, that this ordinance shall not be so construed as to relieve railroad companies from compliance with the conditions contained in Article 10 of the Constitution, in relation to railroads.

ORDINANCE.

No ordinance passed by this Convention and not submitted for the ratification of the people, except that postponing the election, and that submitting the Constitution to a vote of the qualified electors, shall, in any sense, be deemed operative, as affecting the rights of the State, or the rights and obligations of any person, association or corporation within the State, or having rights therein, or obligation thereto, either to confirm, release, relieve or modify the same, unless the Constitution shall be ratified by the qualified electors of the State of Texas.

AN ORDINANCE

To Divide the State of Texas into Senatorial and Representative Districts.

Section 1. Be it ordained by the People of Texas, in Convention assembled, That until after the first apportionment of senators and representatives, as provided in this Constitution, after the census of the United States shall have been taken in 1880, the State shall be divided into Senatorial and Representative districts, as follows:

Senatorial Districts.

First District—The counties of Liberty, Chambers, San Jacinto, Hardin, Tyler, Jefferson, Jasper, Orange, Newton and Polk shall elect one senator; Tyler to be the returning county.

Second District—The counties of Houston, Angelina, Nacogdoches, San Augustine and Sabine shall elect one senator; Nacogdoches to be the returning county.

Third District—The counties of Rusk, Panola and Shelby shall elect one senator; Panola to be the returning county.

Fourth District—The county of Harrison shall elect one senator.

Fifth District—The counties of Marion, Cass, Bowie and Morris shall elect one senator; Cass to be the returning county.

Sixth District—The counties of Red River, Titus, Franklin and Hopkins shall elect one senator; Titus to be the returning county.

Seventh District—The counties of Camp, Upshur, Gregg and Smith shall elect one senator; Gregg to be the returning county.

Eighth District—The counties of Cherokee, Anderson and Henderson shall elect one Senator; Anderson to be the returning county.

Ninth District—The counties of Lamar, Fannin and Delta shall elect one senator; Lamar to be the returning county.

Tenth District—The counties of Wood, Van Zandt, Kaufman, Raines, Rockwall and Hunt shall elect one senator; Kaufman to be the returning county.

Eleventh District—The counties of Gray and Cooke shall elect one senator; Grayson to be the returning county.

Twelfth District—The counties of Collin and Denton shall elect one senator; Collin to be the returning county.

Thirteenth District—The counties of Dallas and Ellis shall elect one senator; Ellis to be the returning county.

Fourteenth District—The counties of Navarro, Limestone and Freestone shall elect one senator; Limestone to be the returning county.

Fifteenth District—Leon, Robertson and Brazos counties shall elect one senator; Robertson to be the returning county.

Sixteenth District—Grimes, Madison, Walker and Trinity counties shall elect one senator; Walker to be the returning county.

Seventeenth District—Waller, Fort Bend and Wharton counties shall elect one senator; Waller to be returning county.

Eighteenth District—The counties of Harris and Montgomery shall elect one senator; Harris to be the returning county.

Nineteenth District—The counties of Galveston, Brazoria and Matagorda shall elect one senator; Galveston to be the returning county.

Twentieth District—Austin, Washington and Burleson counties shall elect one senator; Washington to be the returning county.

Twenty-first District—The counties of Falls, Milam and Bell shall elect one senator; and Milam shall be the returning county.

Twenty-second District—The counties of Johnson, Hill and McLennan shall elect one senator; McLennan to be the returning county.

Twenty-third District—The counties of Tarrant, Parker, Wise, Montague, Clay, Jack and Young, with the unorganized counties west of them, shall elect one senator; Tarrant to be the returning county.

Twenty-fourth District—The counties of Coryell, Bosque, Hamilton, Brown, Coleman, Comanche, Erath, Somerville, Hood, Palo Pinto, Eastland and Shackelford, with the unorganized counties of Runnels, Taylor, Calahan, Jones and Stephens, shall elect one senator; Comanche to be the returning county.

Twenty-fifth District—The counties of Travis, Williamson, Burnet and Lampasas shall elect one senator; Williamson to be the returning county.

Twenty-sixth District—The counties of Fayette, Bastrop and Lee shall elect one senator; Fayette to be the returning county.

Twenty-seventh District—The counties of Colorado, Lava-

ca and Gonzales shall elect one senator; Lavaca to be the returning county.

Twenty-eighth District—The counties of Calhoun, Victoria, De Witt, Aransas, Refugio, Bee, Goliad, Karnes, Wilson, Jackson and Atascosa shall elect one senator; Victoria to be the returning county.

Twenty-ninth District—The counties of Cameron, Hidalgo, Starr, Zapata, Webb, Maverick, Kinney, Uvalde, Medina, Nueces, San Patricio, Live Oak and Frio, with the unorganized counties of Duval, Encinal, McMullen, LaSalle, Dimmitt and Zavala, shall elect one senator; Nueces to be the returning county.

Thirtieth District—The counties of Bexar, Comal, Bandera, Kendall, Kerr, Gillespie, Mason, Menard, Tom Green, Pecos, Presidio and El Paso, with the unorganized counties of Concho, Kimball, Edwards and Crockett, shall elect one senator; Bexar to be the returning county.

Thirty-first District—The counties of Guadalupe, Caldwell, Hays, Blanco, Llano and San Saba, with the unorganized county of McCulloch, shall elect one senator; Hays to be the returning county.

Representative Districts.

Sec. 2. Be it further ordained, That until such apportionment after the census of 1880, representatives shall be elected as follows:

First District—The counties of Liberty, Hardin, Jefferson and Chambers shall elect one representative; Liberty to be the returning county.

Second District—The counties of San Jacinto, Polk and Tyler shall elect one representative; Tyler to be the returning county.

Third District—The counties of Jasper, Newton and Orange shall elect one representative; Jasper to be the returning county.

Fourth District—The counties of San Augustine and Sabine shall elect one representative; San Augustine to be the returning county.

Fifth District—The county of Houston shall elect one representative.

Sixth District—The counties of Nacogdoches and Angelina shall elect one representative; Nacogdoches to be the returning county.

Seventh District—The county of Rusk shall elect one representative.

Eighth District—The counties of Panola and Shelby shall

elect one representative; Panola to be the returning county.

Ninth District—The counties of Rusk, Panola and Shelby shall elect one representative; Panola to be the returning county.

Tenth District—The county of Harrison shall elect one representative.

Eleventh District—The counties of Marion, Cass, Bowie and Morris shall elect three representatives; Cass to be the returning county.

Twelfth District—The county of Red River shall elect one representative.

Thirteenth District—The counties of Titus and Franklin shall elect one representative; Titus to be the returning county.

Fourteenth District—The county of Hopkins shall elect one representative.

Fifteenth District—The county of Smith shall elect one representative.

Sixteenth District—The counties of Smith and Gregg shall elect one representative; Smith to be the returning county.

Seventeenth District—The counties of Camp and Upshur shall elect one representative; Upshur to be the returning county.

Eighteenth District—The county of Lamar shall elect one representative.

Nineteenth District—The county of Fannin shall elect one representative.

Twentieth District—The counties of Lamar, Fannin and Delta shall elect one representative; Lamar to be the returning county.

Twenty-first District—The counties of Hunt and Rockwall shall elect one representative; Hunt to be the returning county.

Twenty-second District—The counties of Kaufman, Raines, Wood and Van Zandt shall elect two representatives; Kaufman to be the returning county.

Twenty-third District—The county of Henderson shall elect one representative.

Twenty-fourth District—The county of Anderson shall elect one representative.

Twenty-fifth District—The county of Cherokee shall elect one representative.

Twenty-sixth District—The county of Leon shall elect one representative.

Twenty-seventh District—The county of Robertson shall elect two representatives.

Twenty-eighth District—The county of Brazos shall elect one representative.

Twenty-ninth District—The county of Grimes shall elect one representative.

Thirtieth District—The counties of Grimes and Madison shall elect one representative; Grimes to be the returning county.

Thirty-first District—The counties of Walker and Trinity shall elect one representative; Walker to be the returning county.

Thirty-second District—The county of Montgomery shall elect one representative.

Thirty-third District—Harris county shall elect two representatives.

Thirty-fourth District—The counties of Harris and Montgomery shall elect one representative; Harris to be the returning county.

Thirty-fifth District—Galveston county shall elect two representatives.

Thirty-sixth District—The counties of Brazoria, Galveston and Matagorda shall elect one representative; Galveston to be the returning county.

Thirty-seventh District—The counties of Wharton, Fort Bend and Waller shall elect two representatives; Waller to be the returning county.

Thirty-eighth District—Austin county shall elect one representative.

Thirty-ninth District—Washington county shall elect one representative.

Fortieth District—Washington and Burleson counties shall elect one representative; Burleson to be the returning county.

Forty-first District—The counties of Falls, Milam and Bell shall elect three representatives; Bell to be the returning county.

Forty-second District—The county of Limestone shall elect one representative.

Forty-third District—The county of Freestone shall elect one representative.

Forty-fourth District—The county of Navarro shall elect one representative.

Forty-fifth District—The county of Ellis shall elect one representative.

Forty-sixth District—The county of Dallas shall elect two representatives.

Forty-seventh District—The county of Collin shall elect one representative.

Forty-eighth District—The county of Grayson shall elect two representatives.

Forty-ninth District—The counties of Grayson and Collin shall elect one representative; Grayson to be the returning county.

Fiftieth District—The county of Cooke shall elect one representative.

Fifty-first District—The county of Denton shall elect one representative.

Fifty-second District—The counties of Clay, Montague and Wise, with the unorganized counties west of Clay, shall elect one representative; Wise to be the returning county.

Fifty-third District—The county of Tarrant shall elect one representative.

Fifty-fourth District—The counties of Parker, Jack and Young, with the unorganized counties west of them, shall elect one representative; Parker to be the returning county.

Fifty-fifth District—The county of Johnson shall elect one representative.

Fifty-sixth District—The county of Hill shall elect one representative.

Fifty-seventh District—The county of McLennan shall elect one representative.

Fifty-eighth District—The counties of Jackson, Calhoun, Victoria, DeWitt, Aransas, Refugio, Bee and Goliad shall elect two representatives; Victoria to be the returning county.

Fifty-ninth District—The counties of Colorado and Lavaca shall elect two representatives; Lavaca to be the returning county.

Sixtieth District—The county of Gonzales shall elect one representative.

Sixty-first District—The county of Fayette shall elect one representative.

Sixty-second District—The county of Bastrop shall elect one representative.

Sixty-third District—The counties of Fayette and Lee shall elect one representative; Fayette to be the returning county.

Sixty-fourth District—The counties of Caldwell, Guadalupe and Hays shall elect two representatives; Hays to be the returning county.

Sixty-fifth District—Travis county shall elect one representative.

Sixty-sixth District—Travis and Blanco counties shall elect one representative; Travis to be the returning county.

Sixty-seventh District—Williamson and Lampasas counties shall elect one representative; Williamson to be the returning county.

Sixty-eighth District—The counties of Coryell, Hamilton, Brown and Coleman, and the unorganized county of Runnels, shall elect one representative; Coryell to be the returning county.

Sixty-ninth District—The counties of Bosque, Somerville and Hood shall elect one representative; Bosque to be the returning county.

Seventieth District—The counties of Erath, Comanche, Palo Pinto, Eastland and Shackelford, with the unorganized counties of Stephens, Jones, Callahan and Taylor, shall elect one representative; Comanche to be the returning county.

Seventy-first District—The county of Bexar shall elect one representative.

Seventy-second District—The counties of Bexar and Comal shall elect one representative; Bexar to be the returning county.

Seventy-third District—The counties of Uvalde, Medina, Bandera, Kendall, Kerr, Gillespie, Mason and Menard, with the unorganized counties of Edwards and Kimble, shall elect one representative; Gillespie to be the returning county.

Seventy-fourth District—The counties of Llano, Burnet, San Saba, McCulloch and Concho shall elect one representative; San Saba to be the returning county.

Seventy-fifth District—The counties of El Paso, Presidio, Pecos, Tom Green and Crockett shall elect one representative; El Paso to be the returning county.

Seventy-sixth District—The counties of Cameron, Hidalgo, Starr, Webb and Zapata shall elect one representative; Cameron to be the returning county.

Seventy-seventh District—The counties of Nueces, Frio, Maverick and Kinney, with the unorganized counties of Duval, Encinal, McMullen, Dimmitt, LaSalle and Zavala, shall elect one representative; Nueces to be the returning county.

Seventy-eighth District—The counties of San Patricio, Live Oak, Karnes, Wilson and Atascosa shall elect one representative; Karnes to be the returning county.

Seventy-ninth District—The counties of Cherokee, Rusk, Panola, Shelby and Harrison, shall elect one representative; Rusk to be the returning county.

Sec. 3. Be it further ordained, That, for all purposes connected with the first election provided for by this convention,

this ordinance shall take effect and be in force from and after its passage, and should the Constitution be ratified by the people, this ordinance shall be and remain in force until the first apportionment after the census of 1880; but should the Constitution be rejected by the people, this ordinance shall thereafter be and remain of no force and effect.

E. B. PICKETT,

President of the Convention.

Attest: LEIGH CHALMERS,

Secretary of the Convention.

AN ORDINANCE

To Divide the State of Texas into Judicial Districts.

Be it ordained by the people of the State of Texas, in Convention assembled, that until otherwise provided by law, the State of Texas shall be divided into twenty-six Judicial Districts, as follows, to-wit:

Section 1. The First District shall be composed of the counties of Jefferson, Chambers, Liberty, Hardin, Polk, Tyler, Jasper, Newton, Orange and San Jacinto.

Sec. 2. The Second District shall be composed of the counties of Harrison, Rusk, Panola, Shelby and Sabine.

Sec. 3. The Third District shall be composed of the counties of San Augustine, Nacogdoches, Cherokee, Houston and Anderson.

Sec. 4. The Fourth District shall be composed of the counties of Grimes, Walker, Madison, Leon, Trinity and Angelina.

Sec. 5. The Fifth District shall be composed of the counties of Marion, Cass, Bowie, Titus, Morris, Franklin and Camp.

Sec. 6. The Sixth District shall be composed of the counties of Red River, Lamar, Fannin and Grayson.

Sec. 7. The Seventh District shall be composed of the counties of Gregg, Smith, Upshur, Wood, Raines, Van Zandt and Henderson.

Sec. 8. The Eighth District shall be composed of the counties of Hunt, Hopkins, Collin, Rockwall, Kaufman and Delta.

Sec. 9. The Ninth District shall be composed of the counties of Brazos, Robertson, Burleson and Milam.

Sec. 10. The Tenth District shall be composed of the counties of Cooke, Denton, Montague, Wise, Clay, Parker, Tarrant, and the unorganized counties of Archer, Wichita, Baylor, Wilbarger, Knox, Hardeman, Greer and Wegeforth.

Sec. 11. The Eleventh District shall be composed of the counties of Dallas and Ellis.

Sec. 12. The Twelfth District shall be composed of the counties of Hood, Coryell, Hamilton, Comanche, Brown, Coleman, Shackelford, Palo Pinto, Eastland, Erath, Somerville, Jack, Young, and the unorganized counties of Jones, Taylor, Runnels, Callahan, Stephens, Haskell and Throckmorton.

Sec. 13. The Thirteenth District shall be composed of the counties of Hill, Navarro, Limestone, Bosque, Johnson and Freestone.

Sec. 14. The Fourteenth District shall be composed of the counties of McLennan, Bell and Falls.

Sec. 15. The Fifteenth District shall be composed of the counties of Austin, Fayette, Bastrop, Caldwell, Hays and Blanco.

Sec. 16. The Sixteenth District shall be composed of the counties of Washington, Lee, Travis and Williamson.

Sec. 17. The Seventeenth District shall be composed of the counties of Burnet, Lampasas, San Saba, Llano, Mason, Menard, Gillespie, and the unorganized counties of Concho, McCulloch and Kimble.

Sec. 18. The Eighteenth District shall be composed of the counties of Waller, Wharton, Fort Bend, Brazoria, Matagorda and Jackson.

Sec. 19. The Nineteenth District shall be composed of the counties of Colorado, Lavaca, Gonzales, Guadalupe and Wilson.

Sec. 20. The Twentieth District shall be composed of the counties of El Paso, Presidio, Tom Green, Pecos and Crockett.

Sec. 21. The Twenty-first District shall be composed of the counties of Harris and Montgomery.

Sec. 22. The Twenty-second District shall be composed of the counties of Comal, Bexar and Atascosa.

Sec. 23. The Twenty-third District shall be composed of the counties of DeWitt, Victoria, Calhoun, Refugio, Goliad, Bee, Aransas, San Patricio, Karnes, Live Oak and McMullen.

Sec. 24. The twenty-fourth District shall be composed of the counties of Kendall, Kerr, Bandera, Medina, Frio,

Uvalde, Zavalla, Kinney, Maverick, Dimmit, LaSalle, Edwards and Dawson.

Sec. 25. The Twenty-fifth District shall be composed of the counties of Cameron, Hidalgo, Starr, Zapata, Webb, Encinal, Nueces and Duval.

Sec. 26. The Twenty-sixth District shall be composed of the county of Galveston.

Sec. 27. Be it further ordained, That for all purposes connected with the first election provided for by this Convention, this ordinance shall take effect and be in force from and after its passage; and should the Constitution be ratified by the people, this ordinance shall be and remain in force until otherwise changed by the Legislature of this State; but should the Constitution be rejected by the people, this ordinance shall thereafter be of no force or effect.

E. B. PICKETT,

President of the Convention.

Attest: LEIGH CHALMERS,

Secretary of the Convention.

AN ORDINANCE

Fixing the terms of the District Courts of the State of Texas.

Be it ordained by the people of Texas in Convention assembled, that until otherwise provided by law, the terms of the Districts Courts of the several judicial districts shall be as hereinafter prescribed:

Section 1.. That the District Courts of the First Judicial District be holden at the times hereinafter specified, to-wit:

In the county of Chambers, on the first Mondays in March and September, and may continue in session one week.

In the county of Liberty, on the first Mondays after the first Mondays in March and September, and may continue in session three weeks.

In the county of San Jacinto, on the fourth Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Polk, on the sixth Mondays after the first Mondays in March and September, and may continue in session three weeks.

In the county of Tyler, on the ninth Mondays after the first Mondays in March and September, and may continue in session three weeks.

In the county of Jasper, on the twelfth Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Newton, on the fourteenth Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Orange, on the sixteenth Mondays after the first Mondays in March and September, and may continue in session one week.

In the county of Jefferson, on the seventeenth Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Hardin, on the nineteenth Mondays after the first Mondays in March and September, and may continue in session one week.

Sec. 2. That the District Courts of the Second Judicial District be holden on the times hereinafter specified, to-wit:

In the county of Sabine, on the first Mondays in January and July, and may continue in session two weeks.

In the county of Shelby, on the second Mondays after the first Mondays in January and July, and may continue in session three weeks.

In the county of Panola, on the fifth Mondays after the first Mondays in January and July, and may continue in session four weeks.

In the county of Rusk, on the ninth Mondays after the first Mondays in January and July, and may continue in session six weeks.

In the county of Harrison, on the fifteenth Mondays after the first Mondays in January and July, and may continue in session until the business is disposed of.

Sec. 3. That the District Courts of the Third Judicial District be holden at the times hereinafter specified, to-wit:

In the county of San Augustine, on the first Mondays in September and February, and may continue in session two weeks.

In the county of Nacogdoches, on the second Mondays after the first Mondays in February and September, and may continue in session three weeks.

In the county of Cherokee, on the fifth Mondays after the first Mondays in February and September, and may continue in session four weeks.

In the county of Houston, on the ninth Mondays after the first Mondays in September, and continue in session five weeks; and on the ninth Mondays after the first Mondays in February, and may continue in session six weeks.

In the county of Anderson, on the fourteenth Mondays after the first Mondays in September, and on the fifteenth Mondays after the first Mondays in February, and may continue in session until the business is disposed of.

Sec. 4. That the District Courts of the Fourth Judicial District be holden at the times hereinafter specified, to-wit:

In the county of Angelina, on the first Mondays in March and September, and may continue in session two weeks.

In the county of Trinity, on the second Mondays after the first Mondays in March and September, and may continue in session three weeks.

In the county of Walker, on the fifth Mondays after the first Mondays in March and September, and may continue in session three weeks.

In the county of Grimes, on the eighth Mondays after the first Mondays in March and September, and may continue in session four weeks.

In the county of Madison, on the twelfth Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Leon, on the fourteenth Mondays after the first Mondays in March and September, and may continue until the business is disposed of.

Sec. 5. That the District Courts of the Fifth Judicial District shall be holden at the times hereinafter specified, to-wit:

In the county of Cass, on the first Mondays in February and September, and may continue in session three weeks.

In the county of Bowie, on the third Mondays after the first Mondays in February and September, and may continue in session two weeks.

In the county of Morris, on the fifth Mondays after the first Mondays in February and September, and may continue in session one week.

In the county of Titus, on the sixth Mondays after the first Mondays in February and September, and may continue in session two weeks.

In the county of Franklin, on the eighth Mondays after the first Mondays in February and September, and may continue in session one week.

In the county of Camp, on the ninth Mondays after the first Mondays in February and September, and may continue in session two weeks.

In the county of Marion, on the eleventh Mondays after the first Mondays in February and September, and may continue

in session eight weeks or until the business of the term can be disposed of.

Sec. 6. That the District Courts of the Sixth Judicial District be holden at the times hereinafter specified, to-wit:

In the county of Grayson, on the first Mondays in January and July, and may continue in session seven weeks.

In the county of Fannin, on the seventh Monday after the first Mondays in January and July, and may continue in session four weeks.

In the county of Lamar, on the eleventh Mondays after the first Mondays in January and July, and may continue in session six weeks.

In the county of Red River, on the seventeenth Mondays after the first Mondays in January and July, and may continue in session four weeks.

Sec. 7. That the District Courts of the Seventh Judicial District be holden at the times hereinafter specified, to-wit:

In the county of Smith, on the second Mondays in March and September, and may continue in session six weeks.

In the county of Henderson, on the sixth Mondays after the second Mondays in March and September, and may continue in session two weeks.

In the county of Van Zandt, on the eighth Mondays after the second Mondays in March and September, and may continue in session three weeks.

In the county of Rains, on the eleventh Mondays after the second Mondays in March and September, and may continue in session one week.

In the county of Wood, on the twelfth Mondays after the second Mondays in March and September, and may continue in session three weeks.

In the county of Upshur, on the fifteenth Mondays after the second Mondays in March and September, and may continue in session three weeks.

In the county of Gregg, on the eighteenth Mondays after the second Mondays in March and September, and may continue in session two weeks.

Sec. 8. That the District Courts of the Eighth Judicial District be holden at the times hereinafter specified, to-wit:

In the county of Hunt, on the first Mondays in January and July, and may continue in session four weeks.

In the county of Delta, on the fourth Mondays after the first Mondays in January and July, and may continue in session one week.

In the county of Hopkins, on the fifth Mondays after the

first Mondays in January and July, and may continue in session four weeks.

In the county of Kaufman, on the ninth Mondays after the first Mondays in January and July, and may continue in session four weeks.

In the county of Rockwall, on the thirteenth Mondays after the first Mondays in January and July, and may continue in session one week.

In the county of Collin, on the fourteenth Mondays after the first Mondays in January and July, and continue in session six weeks.

Sec. 9. That the District Courts of the Ninth Judicial District be holden at the times hereinafter specified, to-wit:

In the county of Brazos on the first Mondays in February and September, and may continue in session four weeks.

In the county of Burleson, on the fourth Mondays after the first Mondays in February and September, and may continue in session four weeks.

In the county of Milam, on the eighth Mondays after the first Mondays in February and September, and may continue in session six weeks.

In the county of Robertson on the fourteenth Mondays after the first Mondays in February and September, and may continue in session until the business is disposed of.

Sec. 10. That the District Courts of the Tenth Judicial District be holden at the times hereinafter specified, to-wit:

In the county of Cooke, on the first Mondays in February and July, and may continue in session three weeks.

In the county of Denton, on the third Mondays after the first Mondays in February and July, and may continue in session three weeks.

In the county of Tarrant, on the sixth Mondays after the first Mondays in February and July, and may continue in session four weeks.

In the county of Parker, on the tenth Mondays after the first Mondays in February and July, and may continue in session three weeks.

In the county of Wise on the thirteenth Mondays after the first Mondays in February and July, and may continue in session two weeks.

In the county of Clay, on the fifteenth Mondays after the first Mondays in February and July, and may continue in session two weeks.

In the county of Montague, on the seventeenth Mondays after the first Mondays in February and July, and may continue in session until business is disposed of.

Sec. 11. That the District Courts of the Eleventh Judicial District be holden at the times hereinafter specified, to-wit:

In the county of Ellis, on the second Mondays in May and November, and may continue in session five weeks.

In the county of Dallas, on the fifth Mondays after the second Mondays in May and November, and may continue in session until the business is disposed of.

Sec. 12. That the District Courts of the Twelfth Judicial District be holden at the times hereinafter specified, to-wit:

In the county of Coryell on the first Mondays in March and September, and may continue in session three weeks.

In the county of Hamilton on the fourth Mondays in March and September, and may continue in session two weeks.

In the county of Comanche on the second Mondays in April and October, and may continue in session two weeks.

In the county of Brown, on the fourth Mondays in April and October, and may continue in session two weeks.

In the county of Coleman, on the second Mondays in May and November, and may continue in session one week.

In the county of Shackelford, on the third Mondays in May and November, and may continue in session one week.

In the county of Young, on the fourth Mondays in May and November, and may continue in session one week.

In the county of Jack, on the first Mondays in June and December, and may continue in session one week.

In the county of Palo Pinto, on the second Mondays of June and December, and may continue in session one week.

In the county of Hood, on the third Mondays in June and December, and may continue in session two weeks.

In the county of Somerville, on the second Mondays in July and January, and may continue in session one week.

In the county of Erath, on the third Mondays in July and January, and may continue in session two weeks.

In the county of Eastland, on the first Mondays in August and February, and may continue in session one week.

For judicial purposes Runnels shall be attached to Coleman; Taylor and Callahan to Eastland; Jones, Haskell, Throckmorton and Stephens to Shackelford.

Sec. 13. That the District Courts of the Thirteenth Judicial District be holden at the times hereinafter specified, to-wit:

In the county of Limestone, on the first Mondays in March and September, and may continue in session four weeks.

In the county of Freestone, on the fourth Mondays after the first Mondays in March and September, and may continue in session four weeks.

In the county of Navarro, on the eighth Mondays after the first Mondays in March and September, and may continue in session four weeks.

In the county of Hill, on the twelfth Mondays after the first Mondays in March and September, and may continue in session three weeks.

In the county of Johnson, on the fifteenth Mondays after the first Mondays in March and September, and may continue in session four weeks.

In the county of Bosque, on the nineteenth Mondays after the first Mondays in March and September, and may continue in session two weeks.

Sec. 14. That the District Courts of the Fourteenth Judicial District be holden at the times hereinafter specified, to-wit:

In the county of Falls, on the first Mondays in March and September, and may continue in session four weeks.

In the county of Bell, on the first Mondays in April and October, and may continue in session four weeks.

In the county of McLennan, on the first Mondays in May and November, and may continue in session until the business is disposed of.

Sec. 15. That the District Courts of the Fifteenth Judicial District be holden at the times hereinafter specified, to-wit:

In the county of Blanco, on the first Mondays in March and September, and may continue in session one week.

In the county of Hays, on the first Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Caldwell, on the third Mondays after the first Mondays in March and September, and may continue in session three weeks.

In the county of Bastrop, on the sixth Mondays after the first Mondays in March and September, and may continue in session four weeks.

In the county of Fayette, on the tenth Mondays after the first Mondays in March and September, and may continue in session six weeks.

In the county of Austin, on the seventeenth Mondays after the first Mondays in March and September, and may continue in session four weeks.

Sec. 16. That the District Courts of the Sixteenth Judi-

cial District be holden at the times hereinafter specified, to-wit:

In the county of Washington, on the first Mondays in January and July, and may continue in session eight weeks.

In the county of Lee, on the eighth Mondays after the first Mondays in January and July, and may continue in session three weeks.

In the county of Williamson, on the eleventh Mondays after the first Mondays in January and July, and may continue in session four weeks.

In the county of Travis, on the fifteenth Mondays after the first Mondays in January and July, and may continue in session until the business is disposed of.

Sec. 17. That the District Courts of the Seventeenth Judicial District be holden at the times hereinafter specified, to-wit:

In the county of Burnet, on the first Mondays in March and September, and may continue in session two weeks.

In the county of Lampasas, on the second Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of San Saba, on the fourth Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Menard, on the sixth Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Mason, on the eighth Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Llano, on the ninth Mondays after the first Mondays in March and September, and may continue in session one week.

In the county of Gillespie, on the tenth Mondays after the first Mondays in March and September, and may continue until the business is disposed of.

The counties of Concho and Kimball are attached to Menard county for judicial purposes, and the county of McCulloch is attached for judicial purposes to the county of San Saba.

Sec. 18. That the District Courts of the Eighteenth Judicial District be holden at the times hereinafter specified, to-wit:

In the county of Waller, on the first Mondays in January and July, and may continue in session three weeks.

In the county of Fort Bend, on the third Mondays after

the first Mondays in January and July, and may continue in session three weeks.

In the county of Wharton, on the sixth Mondays after the first Mondays in January and July, and may continue in session three weeks.

In the county of Jackson, on the ninth Mondays after the first Mondays in January and July, and may continue in session two weeks.

In the county of Matagorda, on the eleventh Mondays after the first Mondays in January and July, and may continue in session two weeks.

In the county of Brazoria, on the thirteenth Mondays after the first Mondays in January and July, and may continue in session until the business is disposed of.

Sec. 19. That the District Courts of the Nineteenth Judicial District be holden at the times hereinafter specified, to-wit:

In the county of Lavaca, on the first Mondays in February and August, and may continue in session four weeks.

In the county of Colorado, on the fourth Mondays after the first Mondays in February and August, and may continue in session four weeks.

In the county of Gonzales, on the eighth Mondays after the first Mondays in February and August, and may continue in session five weeks.

In the county of Guadalupe, on the thirteenth Mondays after the first Mondays in February and August, and may continue in session four weeks.

In the county of Wilson, on the seventeenth Mondays after the first Mondays in February and August, and may continue in session two weeks.

Sec. 20. That the District Courts of the Twentieth Judicial District be holden at the times hereinafter specified, to-wit:

In the county of El Paso, on the first Mondays in March and September, and may continue in session three weeks.

In the county of Presidio, on the fourth Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Pecos, on the seventh Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Tom Green, on the tenth Mondays after the first Mondays in March and September, and may continue in session three weeks.

The county of Crockett is attached to Tom Green county for judicial purposes.

Sec. 21. That the District Courts of the Twenty-first Judicial District be holden at the times hereinafter specified, to-wit:

In the county of Montgomery, on the first Mondays in February and September, and may continue in session four weeks.

In the county of Harris, on the second Mondays in March and October, and may continue in session until the business is disposed of.

Sec. 22. That the District Courts of the Twenty-second Judicial District be holden at the times hereinafter specified, to-wit:

In the county of Comal, on the first Mondays in April and October, and may continue in session two weeks.

In the county of Atascosa, on the second Mondays after the first Mondays in April and October, and may continue in session two weeks.

In the county of Bexar, on the fourth Mondays after the first Mondays in April and October, and may continue in session until the business is disposed of.

Sec. 23. That the District Courts of the Twenty-third Judicial District be holden at the times hereinafter specified, to-wit:

In the county of DeWitt, on the first Mondays in March and September, and may continue in session three weeks.

In the county of Victoria, on the third Mondays after the first Mondays in March and September, and may continue in session three weeks.

In the county of Calhoun, on the sixth Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Refugio, on the eighth Mondays after the first Mondays in March and September, and may continue in session one week.

In the county of Aransas, on the ninth Mondays after the first Mondays in March and September, and may continue in session one week.

In the county of San Patricio, on the tenth Mondays after the first Mondays in March and September, and may continue in session one week.

In the county of Goliad, on the eleventh Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Bee, on the thirteenth Mondays after the

first Mondays in March and September, and may continue in session one week.

In the county of Live Oak, on the fourteenth Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Karnes, on the sixteenth Mondays after the first Mondays in March and September, and may continue in session two weeks.

McMullen county is attached to Live Oak county for judicial purposes.

Sec. 24. That the District Courts of the Twenty-fourth Judicial District be holden at the times hereinafter specified, to-wit:

In the county of Kendall, on the first Mondays in March and September, and may continue in session one week.

In the county of Kerr on the second Mondays after the first Mondays in March and September, and may continue in session one week.

In the county of Bandera, on the third Mondays after the first Mondays in March and September, and may continue in session one week.

In the county of Medina, on the fourth Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Frio, on the sixth Mondays after the first Mondays in March and September, and may continue in session one week.

In the county of Uvalde, on the seventh Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Kinney, on the ninth Mondays after the first Mondays in March and September, and may continue in session one week.

In the county of Maverick, on the tenth Mondays after the first Mondays in March and September, and may continue in session until the business is disposed of.

The unorganized counties of Dimmitt and Zavalla are attached, for judicial purposes, to the county of Maverick; Edwards county is attached, for judicial purposes, to Kerr county, and LaSalle county to Frio county.

Sec. 25. That the District Courts of the Twenty-fifth Judicial District be holden at the times hereinafter specified, to-wit:

In the county of Cameron, on the third Mondays in February and August, and may continue in session four weeks.

In the county of Hidalgo, on the fourth Mondays after

the third Mondays in February and August, and may continue in session one week.

In the county of Starr, on the fifth Mondays after the third Mondays in February and August, and may continue in session one week.

In the county of Zapata, on the sixth Mondays after the third Mondays in February and August, and may continue in session one week.

In the county of Webb, on the seventh Mondays after the third Mondays in February and August, and may continue in session two weeks.

In the county of Nueces, on the tenth Mondays after the third Mondays in February and August, and may continue in session four weeks.

Encinal county is attached, for judicial purposes, to Webb county, and Duval county to the county of Nueces.

Sec. 26. That the District Courts of the Twenty-sixth Judicial District be holden at the times hereinafter specified, to-wit:

In the county of Galveston, on the first Mondays in February, April, June, October and December, and may continue in session until the business is disposed of.

Sec. 27. All writs and process, civil and criminal, heretofore issued by or from the District Courts, in the several counties of this State, and made returnable to the former terms of said courts, as said terms are now fixed by law, shall be returnable to the next ensuing terms of said District Courts in each county, as they are prescribed in this Ordinance; and all such writs and process that may be issued by or from said courts at any time within five days next before the holding of the next ensuing terms of said courts, as prescribed herein, are hereby made returnable to said terms respectively; and all such writs and process hereinbefore mentioned are hereby legalized and validated, to all intents and purposes, as if the same had been made returnable to the term or terms of said court, as the terms thereof are herein prescribed.

Sec. 28. That in case where the time has partly elapsed for holding any term of the District Court, as herein prescribed, at the time of the qualification of the District Judge of said District, then said Judge shall proceed to hold said court for the remainder of said term.

E. B. PICKETT,

President of the Convention.

Attest: LEIGH CHALMERS,

Secretary of the Convention.

AN ORDINANCE

Submitting the new Constitution to a vote of the people,
and for other purposes.

Sec. 1. Be it ordained by the People of Texas, in Convention assembled, That the new Constitution, framed by this Convention, shall be submitted to the electors of this State at an election, which shall be held throughout the State on the third Tuesday in February, A. D. 1876, for their ratification or rejection. Those electors in favor of ratification shall have written or printed on their ballots, "For the Constitution." Those electors opposed to the ratification shall have written or printed on their ballots, "Against the Constitution." If a majority of all the votes cast at said election, and returned to the Secretary of State, shall be in favor of ratification, the Governor shall, within five days next succeeding the return day, issue his proclamation declaring the fact, and then the new Constitution shall, on the third Tuesday in April, A. D. 1876, become, and thereafter be, the organic and fundamental law of the State. If, however, a majority of all the votes so cast and returned be against ratification, then the new Constitution shall have and be of no effect whatever.

Sec. 2. Be it further ordained, That at the same time there shall be a general election held throughout the State for all State, district, county and precinct officers, created and made elective by the new Constitution. The election, as far as practicable, shall be held and conducted as now provided by law; but no registration of voters shall be required, and every elector shall vote in the precinct of his residence; provided, that electors residing in unorganized counties may vote in any precinct of the county to which their respective counties are attached for judicial purposes. The qualifications of electors shall be as defined in the article regulating suffrage in the new Constitution.

Sec. 3. Be it further ordained, That the county courts now existing shall meet at their respective county seats within twenty days after the adjournment of this Convention, or as soon thereafter as practicable, and redivide their respective counties into the number of precincts provided for by the new Constitution and make immediate proclamation thereof for the information of the people. Said courts shall establish at least one voting place in each precinct, and where deemed necessary for public con-

venience, they shall establish two or more voting places in any precinct.

Sec. 4. Be it further ordained, That the returns of said election shall be made as now provided by law, to the presiding justice of each county, and to the returning officer of each returning county named in the ordinance apportioning the State into senatorial and representative districts, passed by this Convention, as is now required by law, and to the Secretary of State where by law it is now required. In all cases the returns shall be made, opened, counted, and the result recorded and declared by the proper officers as is provided by existing laws, and the returns of the election of all judges shall be made by the presiding justice of each county to the Secretary of State.

Sec. 5. If the new Constitution shall be ratified by the people, then the county judges, county attorneys, and other county officers created by the new Constitution shall, until otherwise provided, receive such fees as were allowed by the Constitution and laws of 1866.

Sec. 6. Be it further ordained, That in case the new Constitution shall be ratified at said election, the Senators and Representatives then elected shall assemble as the Fifteenth Legislature, at the seat of government, on the third Tuesday in April, A. D. 1876.

Sec. 7. Be it further ordained, That after the first election herein provided for, until otherwise prescribed by law, the regular biennial elections of this State, for State, district, county and precinct officers, after the year 1876, shall be held on the Tuesday next after the first Monday in November, every second year, commencing with November, 1878. All officers elected at the election herein provided for, shall hold their offices as though they had been elected in November, 1876, whether the tenure of their offices, by the new Constitution, be for two, four or six years.

Sec. 8. Be it further ordained, That all judicial, district, county and precinct officers elected in accordance with the provisions of this ordinance shall be installed in office on the third Tuesday in April, A. D. 1876; provided, that persons, so elected who may be prevented from qualifying by reason of illness or absence, shall have twenty additional days in which to do so. The Governor and all State officers not named before in this section, shall be installed on the first Tuesday after the assemblage of the Legislature elected as herein provided. As each newly elected officer may be qualified, his predecessor, if any, shall cease his functions, and deliver to his successor all books, papers, archives

and records, and all property of whatever nature or kind, pertaining to his office or in his possession or charge.

Sec. 9. There shall be no session of the Legislature in January, 1876, unless specially called by the Governor, nor except under the provisions of the new Constitution and this ordinance, or under the ordinance of this Convention postponing the election of December, 1875.

Sec. 10. That this ordinance shall take effect and be in full force from and after its passage.

E. B. PICKETT,

President of the Convention.

Attest: LEIGH CHALMERS,

Secretary of the Convention.

AN ORDINANCE

Supplementary to an Ordinance to provide for submitting the Constitution to a vote of the people, and for a general election under its provisions.

Section 1. Be it ordained by the People of Texas in Convention assembled, That all returns of the election to be held on the third Tuesday in February, 1876, under the provisions of the ordinance to which this is supplementary, shall be made to the presiding justice of each county, by the proper election officers, on or before the Saturday next succeeding the said day of election, on which day the presiding justice, or, in his absence, or refusal to act, the district clerk, shall open, compare and record the votes for all officers, and on the ratification or rejection of the Constitution, as is provided for other elections by law. The presiding justice, or district clerk, as the case may be, shall immediately make return of the vote for or against the Constitution, for all State officers, all judicial officers, and for district attorneys in the districts in which they are to be chosen. The returns for Governor and other State officers shall be made separately, and addressed to the speaker of the House of Representatives, to the care of the Secretary of State. The returns for and against the Constitution, for judges of the supreme, appellate and district courts, and for district attorneys, shall be addressed to the Secretary of State. On the third Tuesday in March, the Governor, Secretary of State and Attorney General shall open, count, record and declare the result in the returns for and

against the Constitution, for supreme, appellate and district judges, and for district attorneys; whereupon, within five days, the Governor shall make proclamation of the result, as to the ratification or rejection of the Constitution, and if the Constitution be ratified, issue certificates of election to the persons who may be chosen, to the respective judicial district offices herein referred to.

E. B. PICKETT,

President of the Convention.

Attest: LEIGH CHALMERS,

Secretary of the Convention.

AN ORDINANCE.

Be it ordained by the people of Texas, in Convention assembled, That the Governor be authorized and requested, immediately upon the adjournment of this Convention, to issue his proclamation for the election contemplated by "an ordinance submitting the new Constitution to a vote of the people, and for other purposes," passed by this Convention on the twenty-second of November, A. D. 1875, and an ordinance supplemental thereto, passed on the twenty-third day of November, 1875; and that said election be holden in the manner prescribed in said ordinance and supplement, and by such officers as are authorized by law to hold general elections under existing laws.

Passed November 23, 1875.

E. B. PICKETT,

President of the Convention.

Attest: LEIGH CHALMERS,

Secretary of the Convention.

Resolved, That George Flournoy, W. P. Ballinger and W. H. Stewart, members of this Convention, be and they are hereby appointed a committee to supervise the printing of the Constitution, and see that the work is done in accordance with the enrolled copy.

Adopted November 23, 1875.

LEIGH CHALMERS,

Secretary of the Convention.

CONSTITUTION
OF THE
THE STATE OF TEXAS

ADOPTED BY THE
CONSTITUTIONAL CONVENTION

CONVENED AT AUSTIN, SEPTEMBER 6, 1875, AND
RATIFIED BY THE PEOPLE
FEBRUARY 15, 1876.

HOUSTON
1876

CONSTITUTION.

PREAMBLE.

Humbly invoking the blessing of Almighty God, the people of the State of Texas do ordain and establish this Constitution.

ARTICLE I.

Bill of Rights.

That the general, great and essential principles of liberty and free government may be recognized and established, we declare:

Section 1. Texas is a free and independent State, subject only to the Constitution of the United States; and the maintenance of our free institutions and the perpetuity of the Union depend upon the preservation of the right of local self-government unimpaired to all the States.

Sec. 2. All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit. The faith of the people of Texas stands pledged to the preservation of a republican form of government, and, subject to this limitation only, they have at all times the inalienable right to alter, reform or abolish their government in such manner as they may think expedient.

Sec. 3. All free men when they form a social compact, have equal rights, and no man, or set of men, is entitled to exclusive separate public emoluments, or privileges, but in consideration of public services.

Sec. 4. No religious test shall ever be required as a qualification to any office, or public trust, in this State; nor shall any one be excluded from holding office on account of his religious sentiments, provided he acknowledge the existence of a Supreme Being.

Sec. 5. No person shall be disqualified to give evidence in any of the courts of this State on account of his religious opinions, or for the want of any religious belief, but all oaths or affirmations shall be administered in the mode most bind-

ing upon the conscience, and shall be taken subject to the pains and penalties of perjury.

Sec. 6. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences. No man shall be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent. No human authority ought, in any case whatever, to control or interfere with the rights of conscience in matters of religion, and no preference shall ever be given by law to any religious society or mode of worship. But it shall be the duty of the Legislature to pass such laws as may be necessary to protect equally every religious denomination in the peaceable enjoyment of its own mode of public worship.

Sec. 7. No money shall be appropriated or drawn from the treasury for the benefit of any sect, or religious society, theological or religious seminary; nor shall property belonging to the State be appropriated for any such purposes.

Sec. 8. Every person shall be at liberty to speak, write or publish his opinions on any subject, being responsible for the abuse of that privilege; and no law shall ever be passed curtailing the liberty of speech or of the press. In prosecutions for the publication of papers investigating the conduct of officers or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence. And in all indictments for libels the jury shall have the right to determine the law and the facts, under the direction of the court, as in other cases.

Sec. 9. The people shall be secure in their persons, houses, papers and possessions from all unreasonable seizures or searches, and no warrant to search any place, or to seize any person or thing, shall issue without describing them as near as may be, nor without probable cause supported by oath or affirmation.

Sec. 10. In all criminal prosecutions, the accused shall have a speedy public trial by an impartial jury. He shall have the right to demand the nature and cause of the accusation against him, and have a copy thereof. He shall not be compelled to give evidence against himself. He shall have the right of being heard by himself or counsel or both; shall be confronted with the witnesses against him, and shall have compulsory process for obtaining witnesses in his favor. And no person shall be held to answer for a criminal offense, unless on indictment of a grand jury, except in cases in which the punishment is by fine, or imprisonment otherwise than in the penitentiary, in cases of impeachment, and in cases

arising in the army or navy, or in the militia, when in actual service in time of war or public danger.

Sec. 11. All prisoners shall be bailable by sufficient sureties, unless for capital offenses when the proof is evident; but this provision shall not be so construed as to prevent bail after indictment found, upon examination of the evidence in such manner as may be prescribed by law.

Sec. 12. The writ of habeas corpus is a writ of right, and shall never be suspended. The Legislature shall enact laws to render the remedy speedy and effectual.

Sec. 13. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted. All courts shall be open, and every person for an injury done him in his lands, goods, person or reputation shall have remedy by due course of law.

Sec. 14. No person, for the same offense, shall be twice put in jeopardy of life or liberty; nor shall a person be again put upon trial for the same offense after a verdict of not guilty in a court of competent jurisdiction.

Sec. 15. The right of trial by jury shall remain inviolate. The Legislature shall pass such laws as may be needed to regulate the same, and to maintain its purity and efficiency.

Sec. 16. No bill of attainder, ex post facto law, retroactive law, or any law impairing the obligation of contracts, shall be made.

Sec. 17. No person's property shall be taken, damaged or destroyed for or applied to public use without adequate compensation being made, unless by the consent of such person; and, when taken, except for the use of the state, such compensation shall be first made, or secured by a deposit of money; and no irrevocable or uncontrollable grant of special privileges or immunities shall be made; but all privileges and franchises granted by the Legislature or created under its authority shall be subject to the control thereof.

Sec. 18. No person shall ever be imprisoned for debt.

Sec. 19. No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land.

Sec. 20. No person shall be outlawed; nor shall any person be transported out of the State for any offense committed within the same.

Sec. 21. No conviction shall work corruption of blood, or forfeiture of estate; and the estates of those who destroy their own lives shall descend or vest as in case of natural death.

Sec. 22. Treason against the State shall consist only in

levying war against it, or adhering to its enemies, giving them aid and comfort; and no person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or on confession in open court.

Sec. 23. Every citizen shall have the right to keep and bear arms in the lawful defense of himself or the State; but the Legislature shall have power by law to regulate the wearing of arms with a view to prevent crime.

Sec. 24. The military shall at all times be subordinate to the civil authority.

Sec. 25. No soldier shall in time of peace be quartered in the house of any citizen without the consent of the owner, nor in time of war but in a manner prescribed by law.

Sec. 26. Perpetuities and monopolies are contrary to the genius of a free government, and shall never be allowed; nor shall the law of primogeniture or entailments ever be in force in this State.

Sec. 27. The citizens shall have the right, in a peaceable manner, to assemble together for their common good, and apply to those invested with the power of government for redress of grievances or other purposes, by petition, address or remonstrance.

Sec. 28. No power of suspending laws in this State shall be exercised except by the Legislature.

Sec. 29. To guard against transgressions of the high powers herein delegated, we declare that everything in this "Bill of Rights" is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provisions, shall be void.

ARTICLE II.

The Powers of Government.

Section 1. The powers of the government of the State of Texas shall be divided into three distinct departments, each of which shall be confided to a separate body of magistracy, to-wit: Those which are legislative to one, those which are executive to another, and those which are judicial to another; and no person, or collection of persons, being of one of these departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.

ARTICLE III.

Legislative Department.

Section 1. The legislative power of this State shall be vested in a Senate and House of Representatives, which together shall be styled "The Legislature of the State of Texas."

Sec. 2. The Senate shall consist of thirty-one members, and shall never be increased above this number. The House of Representatives shall consist of ninety-three members until the first apportionment after the adoption of this Constitution, when, or at any apportionment thereafter, the number of representatives may be increased by the Legislature, upon the ratio of not more than one representative for every fifteen thousand inhabitants, provided, the number of representatives shall never exceed one hundred and fifty.

Sec. 3. The senators shall be chosen by the qualified electors for the term of four years; but a new Senate shall be chosen after every apportionment, and the senators elected after each apportionment shall be divided by lot into two classes. The seats of the senators of the first class shall be vacated at the expiration of the first two years, and those of the second class at the expiration of four years, so that one-half of the senators shall be chosen biennially thereafter.

Sec. 4. The members of the House of Representatives shall be chosen by the qualified electors, and their term of office shall be two years from the day of their election.

Sec. 5. The Legislature shall meet every two years, at such time as may be provided by law, and at other times when convened by the Governor.

Sec. 6. No person shall be a senator, unless he be a citizen of the United States, and, at the time of his election a qualified elector of this State, and shall have been a resident of this State five years next preceding his election, and the last year thereof a resident of the district for which he shall be chosen, and shall have attained the age of twenty-six years.

Sec. 7. No person shall be a representative, unless he be a citizen of the United States, and, at the time of his election a qualified elector of this State, and shall have been a resident of this State two years next preceding his election, the last year thereof a resident of the district for which he shall be chosen, and shall have attained the age of twenty-one years.

Sec. 8. Each house shall be the judge of the qualifications and election of its own members; but contested elections shall be determined in such manner as shall be provided by law.

Sec. 9. The Senate shall, at the beginning and close of each session, and at such other times as may be necessary, elect one of its members President, pro tempore, who shall perform the duties of the lieutenant governor in any case of absence or disability of that officer, and whenever the said office of lieutenant governor shall be vacant. The House of Representatives shall, when it first assembles, organize temporarily, and thereupon proceed to the election of a speaker from its own members; and each house shall choose its other officers.

Sec. 10. Two-thirds of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as each house may provide.

Sec. 11. Each house may determine the rules of its own proceedings, punish members for disorderly conduct, and, with the consent of two-thirds, expel a member, but not a second time for the same offense.

Sec. 12. Each house shall keep a journal of its proceedings, and publish the same; and the yeas and nays of the members of either house on any question shall, at the desire of any three members present, be entered on the journals.

Sec. 13. When vacancies occur in either house, the governor, or the person exercising the power of the governor, shall issue writs of election to fill such vacancies; and should the governor fail to issue a writ of election to fill any such vacancy within twenty days after it occurs, the returning officer of the district in which such vacancy may have happened shall be authorized to order an election for that purpose.

Sec. 14. Senators and representatives shall, except in cases of treason, felony, or breach of the peace, be privileged from arrest during the session of the Legislature, and in going to and returning from the same, allowing one day for every twenty miles such member may reside from the place at which the Legislature is convened.

Sec. 15. Each house may punish, by imprisonment, during its sessions, any person not a member, for disrespectful or disorderly conduct in its presence, or for obstructing any of its proceedings; provided, such imprisonment shall not, at any one time, exceed forty-eight hours.

Sec. 16. The sessions of each house shall be open, except the Senate when in executive session.

Sec. 17. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that where the Legislature may be sitting.

Sec. 18. No senator or representative shall, during the term for which he may be elected, be eligible to any civil office of profit under this State which shall have been created or the emoluments of which may have been increased during such term; no member of either house shall, during the term for which he is elected, be eligible to any office or place, the appointment to which may be made, in whole or in part, by either branch of the Legislature; and no member of either house shall vote for any other member for any office whatever, which may be filled by a vote of the Legislature, except in such cases as are in this Constitution provided. Nor shall any member of the Legislature be interested, either directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the term for which he shall have been elected.

Sec. 19. No judge of any court, secretary of state, attorney general, clerk of any court of record, or any person holding a lucrative office under the United States, or this State, or any foreign government shall, during the term for which he is elected or appointed, be eligible to the Legislature.

Sec. 20. No person who at any time may have been a collector of taxes, or who may have been otherwise entrusted with public money, shall be eligible to the Legislature, or to any office of profit or trust under the State government, until he shall have obtained a discharge for the amount of such collections, or for all public moneys with which he may have been entrusted.

Sec. 21. No member shall be questioned in any other place for words spoken in debate in either house.

Sec. 22. A member who has a personal or private interest in any measure or bill, proposed, or pending before the Legislature, shall disclose the fact to the house, of which he is a member, and shall not vote thereon.

Sec. 23. If any senator or representative remove his residence from the district or county for which he was elected, his office shall thereby become vacant, and the vacancy shall be filled as provided in section 13 of this article.

Sec. 24. The members of the Legislature shall receive from the public treasury such compensation for their services, as may, from time to time, be provided by law, not exceeding five dollars per day for the first sixty days of each session; and after that not exceeding two dollars per day for the remainder of the session; except the first session held under this Constitution, when they may receive not exceeding five dollars per day for the first ninety days, and after that not exceeding two dollars per day for the remainder of the session. In addition to the per diem the members of each house

shall be entitled to mileage in going to and returning from the seat of government, which mileage shall not exceed five dollars for every twenty-five miles, the distance to be computed by the nearest and most direct route of travel by land regardless of railways or water routes; and the comptroller of the State shall prepare and preserve a table of distances to each county seat now or hereafter to be established and by such table the mileage of each member shall be paid; but no member shall be entitled to mileage for any extra session that may be called within one day after the adjournment of a regular or called session.

Sec. 25. The State shall be divided into senatorial districts of contiguous territory according to the number of qualified electors, as nearly as may be, and each district shall be entitled to elect one senator, and no single county shall be entitled to more than one senator.

Sec. 26. The members of the House of Representatives shall be apportioned among the several counties, according to the number of population in each, as nearly as may be, on a ratio obtained by dividing the population of the State, as ascertained by the most recent United States census, by the number of members of which the house is composed; provided, that whenever a single county has sufficient population to be entitled to a representative, such county shall be formed into a separate representative district, and when two or more counties are required to make up the ratio of representation such counties shall be contiguous to each other: and when any one county has more than sufficient population to be entitled to one or more representatives, such representative or representatives shall be apportioned to such county, and for any surplus of population it may be joined in a representative district with any other contiguous county or counties.

Sec. 27. Elections for senators and representatives shall be general throughout the State, and shall be regulated by law.

Sec. 28. The Legislature shall, at its first session after the publication of each United States decennial census, apportion the State into senatorial and representative districts, agreeably to the provisions of sections 25 and 26 of this Article; and until the next decennial census, when the first apportionment shall be made by the Legislature, the State shall be, and it is hereby divided into senatorial and representative districts as provided by an ordinance of the Convention on that subject.

Proceedings.

Sec. 29. The enacting clause of all laws shall be, "Be it enacted by the Legislature of the State of Texas."

Sec. 30. No law shall be passed except by bill, and no bill shall be so amended in its passage through either house as to change its original purpose.

Sec. 31. Bills may originate in either house, and when passed by such house may be amended, altered or rejected by the other.

Sec. 32. No bill shall have the force of law until it has been read on three several days in each house, and free discussion allowed thereon; but in cases of imperative public necessity (which necessity shall be stated in a preamble, or in the body of the bill), four-fifths of the house in which the bill may be pending may suspend this rule, the yeas and nays being taken on the question of suspension, and entered upon the journal.

Sec. 33. All bills for raising revenue shall originate in the House of Representatives, but the Senate may amend or reject them as other bills.

Sec. 34. After a bill has been considered and defeated by either house of the Legislature no bill containing the same substance shall be passed into a law during the same session. After a resolution has been acted on and defeated no resolution containing the same substance shall be considered at the same session.

Sec. 35. No bill (except general appropriation bills, which may embrace the various subjects and accounts for and on account of which moneys are appropriated) shall contain more than one subject, which shall be expressed in its title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed.

Sec. 36. No law shall be revived or amended by reference to its title; but in such case the act revived or the section or sections amended shall be re-enacted and published at length.

Sec. 37. No bill shall be considered, unless it has been first referred to a committee and reported thereon; and no bill shall be passed which has not been presented and referred to and reported from a committee at least three days before the final adjournment of the Legislature.

Sec. 38. The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the Legislature, after their

titles have been publicly read before signing; and the fact of signing shall be entered on the journals.

Sec. 39. No law passed by the Legislature, except the general appropriation act, shall take effect or go into force until ninety days after the adjournment of the session at which it was enacted, unless in case of emergency, which emergency must be expressed, in a preamble or in the body of the act, the Legislature shall, by a vote of two-thirds of all the members elected to each house, otherwise direct; said vote to be taken by yeas and nays, and entered upon the journals.

Sec. 40. When the Legislature shall be convened in special session, there shall be no legislation upon subjects other than those designated in the proclamation of the governor calling such session, or presented to them by the governor; and no such session shall be of longer duration than thirty days.

Sec. 41. In all elections by the Senate and House of Representatives, jointly or separately, the vote shall be given viva voce, except in the election of their officers.

Requirements and Limitations.

Sec. 42. The Legislature shall pass such laws as may be necessary to carry into effect the provisions of this Constitution.

Sec. 43. The first session of the Legislature under this Constitution shall provide for revising, digesting and publishing the laws, civil and criminal; and a like revision, digest and publication may be made every ten years thereafter; provided, that in the adoption of and giving effect to any such digest or revision, the Legislature shall not be limited by sections 35 and 36 of this Article.

Sec. 44. The Legislature shall provide by law for the compensation of all officers, servants, agents and public contractors, not provided for in this Constitution, but shall not grant extra compensation to any officer, agent, servant, or public contractors, after such public service shall have been performed or contract entered into for the performance of the same; nor grant, by appropriation or otherwise, any amount of money out of the treasury of the State, to any individual, on a claim, real or pretended, when the same shall not have been provided for by pre-existing law; nor employ any one in the name of the State unless authorized by pre-existing law.

Sec. 45. The power to change the venue in civil and criminal cases shall be vested in the courts, to be exercised in such manner as shall be provided by law; and the Legislature shall pass laws for that purpose.

Sec. 46. The Legislature shall, at its first session after the adoption of this Constitution, enact effective vagrant laws.

Sec. 47. The Legislature shall pass laws prohibiting the establishment of lotteries and gift enterprises in this State, as well as the sale of tickets in lotteries, gift enterprises or other evasions involving the lottery principle, established or existing in other States.

Sec. 48. The Legislature shall not have the right to levy taxes or impose burdens upon the people, except to raise revenue sufficient for the economical administration of the government, in which may be included the following purposes:

The payment of all interest upon the bonded debt of the State;

The erection and repairs of public buildings;

The benefit of the sinking fund, which shall not be more than two per centum of the public debt; and for the payment of the present floating debt of the State, including matured bonds for the payment of which the sinking fund is inadequate;

The support of public schools, in which shall be included colleges and universities established by the State; and the maintenance and support of the Agricultural and Mechanical College of Texas;

The payment of the cost of assessing and collecting the revenue; and the payment of all officers, agents and employes of the State government, and all incidental expenses connected therewith;

The support of the Blind Asylum, the Deaf and Dumb Asylum, and the Insane Asylum, the State Cemetery and the public grounds of the State;

The enforcement of quarantine regulations on the coast of Texas;

The protection of the frontier.

Sec. 49. No debt shall be created by or on behalf of the State, except to supply casual deficiencies of the revenue, repel invasion, suppress insurrection, defend the State in war, or pay existing debt, and the debt created to supply deficiencies in the revenue, shall never exceed in the aggregate at any one time two hundred thousand dollars.

Sec. 50. The Legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State in aid of, or to any person, association or corporation, whether municipal or other; or to pledge the credit of the State in any manner whatsoever, for the payment of the liabilities, present or prospective, of any individual, associa-

tion of individuals, municipal or other corporation whatsoever.

Sec. 51. The Legislature shall have no power to make any grant, or authorize the making of any grant, of public money to any individual, association of individuals, municipal or other corporation whatsoever; provided, that this shall not be so construed as to prevent the grant of aid in case of public calamity.

Sec. 52. The Legislature shall have no power to authorize any county, city, town, or other political corporation, or subdivision of the State, to lend its credit or to grant public money or thing of value, in aid of or to any individual, association, or corporation whatsoever; or to become a stockholder in such corporation, association or company.

Sec. 53. The Legislature shall have no power to grant, or to authorize any county or municipal authority to grant, any extra compensation, fee or allowance to a public officer, agent, servant or contractor, after service has been rendered, or a contract has been entered into, and performed in whole or in part; nor pay, nor authorize the payment of, any claim created against any county or municipality of the State, under any agreement or contract, made without authority of law.

Sec. 54. The Legislature shall have no power to release or alienate any lien held by the State upon any railroad, or in anywise change the tenor or meaning, or pass any act explanatory thereof; but the same shall be enforced in accordance with the original terms upon which it was acquired.

Sec. 55. The Legislature shall have no power to release or extinguish, or to authorize the releasing or extinguishing, in whole or in part, the indebtedness, liability or obligation of any incorporation or individual to this State, or to any county, or other municipal corporation therein.

Sec. 56. The Legislature shall not, except as otherwise provided in this Constitution, pass any local or special law, authorizing:

The creation, extension or impairing of liens;

Regulating the affairs of counties, cities, towns, wards or school districts;

Changing the name of persons or places; changing the venue in civil or criminal cases;

Authorizing the laying out, opening, altering or maintaining of roads, highways, streets or alleys;

Relating to ferries and bridges, or incorporating ferry or bridge companies, except for the erection of bridges crossing streams which form boundaries between this and any other State;

Vacating roads, town plats, streets or alleys;

Relating to cemeteries, grave yards or public grounds not of the State;

Authorizing the adoption or legitimation of children;

Locating or changing county seats;

Incorporating cities, towns or villages, or changing their charters;

For the opening and conducting of elections, or fixing or changing the places of voting;

Granting divorces;

Creating offices, or prescribing the powers and duties of officers, in counties, cities, towns, election or school districts;

Changing the law of descent or succession;

Regulating the practice or jurisdiction of, or changing the rules of evidence in any judicial proceeding or inquiry before courts, justices of the peace, sheriffs, commissioners, arbitrators, or other tribunals, or providing or changing methods for the collection of debts, or the enforcing of judgments, or prescribing the effect of judicial sales of real estate;

Regulating the fees, or extending the powers and duties of aldermen, justices of the peace, magistrates or constables;

Regulating the management of public schools, the building or repairing of school houses, and the raising of money for such purposes;

Fixing the rate of interest;

Affecting the estates of minors, or persons under disability;

Remitting fines, penalties and forfeitures, and refunding moneys legally paid into the treasury;

Exempting property from taxation;

Regulating labor, trade, mining and manufacturing;

Declaring any named person of age;

Extending the time for the assessment or collection of taxes, or otherwise relieving any assessor or collector of taxes from the due performance of his official duties, or his securities from liability;

Giving effect to informal or invalid wills or deeds;

Summoning or impanneling grand or petit juries;

For limitation of civil or criminal actions;

For incorporating railroads or other work of internal improvements;

And in all other cases where a general law can be made applicable, no local or special law shall be enacted; provided, that nothing herein contained shall be construed to prohibit the Legislature from passing special laws for the preservation of the game and fish of this State in certain localities.

Sec. 57. No local or special law shall be passed, unless notice of the intention to apply therefor shall have been published in the locality where the matter or thing to be affected

may be situated, which notice shall state the substance of the contemplated law, and shall be published at least thirty days prior to the introduction into the Legislature of such bill and in the manner to be provided by law. The evidence of such notice having been published shall be exhibited in the Legislature before such act shall be passed.

Sec. 58. The Legislature shall hold its sessions at the city of Austin, which is hereby declared to be the Seat of Government.

ARTICLE IV.

Executive Department.

Section 1. The executive department of the State shall consist of a governor, who shall be the chief executive officer of the State, a lieutenant-governor, secretary of State, comptroller of public accounts, treasurer, commissioner of the general land office and attorney general.

Sec. 2. All the above officers of the executive department (except secretary of state) shall be elected by the qualified voters of the State at the time and places of election for members of the Legislature.

Sec. 3. The returns of every election for said executive officers, until otherwise provided by law, shall be made out, sealed up and transmitted by the returning officers prescribed by law, to the seat of government, directed to the secretary of state, who shall deliver the same to the speaker of the house of representatives, as soon as the speaker shall be chosen; and the said speaker shall, during the first week of the session of the Legislature, open and publish them in the presence of both houses of the Legislature. The person, voted for at said election, having the highest number of votes for each of said offices respectively, and being constitutionally eligible, shall be declared by the speaker, under sanction of the Legislature, to be elected to said office. But if two or more persons shall have the highest and an equal number of votes for either of said offices one of them shall be immediately chosen to such office by joint vote of both houses of the legislature. Contested elections for either of said offices shall be determined by both houses of the Legislature in joint session.

Sec. 4. The governor shall be installed on the first Tuesday after the organization of the Legislature, or as soon thereafter as practicable, and shall hold his office for the term of two years, or until his successor shall be duly installed. He shall be at least thirty years of age, a citizen of the United

States, and shall have resided in this State at least five years immediately preceding his election.

Sec. 5. He shall at stated times, receive as compensation for his services an annual salary of four thousand dollars and no more, and shall have the use and occupation of the governor's mansion, fixtures and furniture.

Sec. 6. During the time he holds the office of governor he shall not hold any other office, civil, military, or corporate; nor shall he practice any profession, and receive compensation, reward, fee, or the promise thereof for the same; nor receive any salary, reward, or compensation, or the promise thereof, from any person or corporation, for any service rendered or performed during the time he is governor, or to be thereafter rendered or performed.

Sec. 7. He shall be commander-in-chief of the military forces of the State, except when they are called into actual service of the United States. He shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, repel invasions, and protect the frontier from hostile incursions by Indians or other predatory bands.

Sec. 8. The governor may, on extraordinary occasions, convene the Legislature at the seat of government, or at a different place in case that should be in possession of the public enemy or in case of the prevalence of disease thereat. His proclamation therefor shall state specifically the purpose for which the Legislature is convened.

Sec. 9. The governor shall, at the commencement of each session of the Legislature, and at the close of his term of office, give to the Legislature information, by message, of the condition of the State; and he shall recommend to the Legislature such measures as he may deem expedient. He shall account to the Legislature for all public moneys received and paid out by him from any fund subject to his order, with vouchers; and shall accompany his message with a statement of the same. And at the commencement of each regular session, he shall present estimates of the amount of money required to be raised by taxation for all purposes.

Sec. 10. He shall cause the laws to be faithfully executed; and shall conduct, in person, or in such manner as shall be prescribed by law, all intercourse and business of the State with other States and with the United States.

Sec. 11. In all criminal cases, except treason and impeachment, he shall have power, after conviction, to grant reprieves, commutations of punishment and pardons; and under such rules as the Legislature may prescribe, he shall have power to remit fines and forfeitures. With the advice and consent of the Senate, he may grant pardons in cases of trea-

son, and to this end he may respite a sentence therefor, until the close of the succeeding session of the Legislature; provided, that in all cases of remissions of fines and forfeitures, or grants of reprieve, commutation of punishment, or pardon, he shall file in the office of the secretary of State his reasons therefor.

Sec. 12. All vacancies in State or district offices, except members of the Legislature, shall be filled, unless otherwise provided by law, by appointment of the governor, which appointment, if made during its session, shall be with the advice and consent of two-thirds of the Senate present. If made during the recess of the Senate, the said appointee, or some other person to fill such vacancy, shall be nominated to the Senate during the first ten days of its session. If rejected, said office shall immediately become vacant, and the governor shall, without delay, make further nominations, until a confirmation takes place. But should there be no confirmation during the session of the Senate, the governor shall not thereafter appoint any person to fill such vacancy who has been rejected by the Senate; but may appoint some other person to fill the vacancy until the next session of the Senate or until the regular election to said office, should it sooner occur. Appointments to vacancies in offices elective by the people shall only continue until the first general election thereafter.

Sec. 13. During the session of the Legislature the governor shall reside where its sessions are held, and at all other times at the seat of government, except when by act of the Legislature, he may be required or authorized to reside elsewhere.

Sec. 14. Every bill which shall have passed both houses of the Legislature shall be presented to the governor for his approval. If he approve he shall sign it; but if he disapprove it, he shall return it, with his objections, to the house in which it originated, which house shall enter the objections at large upon its journal, and proceed to reconsider it. If after such reconsideration, two-thirds of the members present agree to pass the bill, it shall be sent, with the objections, to the other house, by which likewise it shall be reconsidered; and, if approved by two-thirds of the members of that house, it shall become a law; but in such cases the votes of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor with his objections within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Legislature, by its adjournment, prevent its return;

in which case it shall be a law, unless he shall file the same, with his objections, in the office of the secretary of state, and give notice thereof by public proclamation within twenty days after such adjournment. If any bill presented to the governor contains several items of appropriation, he may object to one or more of such items, and approve the other portion of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and no item so objected to shall take effect. If the Legislature be in session he shall transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately considered. If, on reconsideration, one or more of such items be approved by two-thirds of the members present of each house, the same shall be part of the law, notwithstanding the objections of the governor. If any such bill, containing several items of appropriation, not having been presented to the governor ten days (Sundays excepted) prior to adjournment, be in the hands of the governor at the time of adjournment, he shall have twenty days from such adjournment within which to file objections to any items thereof and make proclamation of the same, and such item or items shall not take effect.

Sec. 15. Every order, resolution or vote to which the concurrence of both houses of the Legislature may be necessary, except on questions of adjournment, shall be presented to the governor, and, before it shall take effect, shall be approved by him; or, being disapproved, shall be repassed by both houses; and all the rules, provisions and limitations shall apply thereto as prescribed in the last preceding section in the case of a bill.

Sec. 16. There shall also be a lieutenant-governor, who shall be chosen at every election for governor by the same electors, in the same manner, continue in office the same time, and possess the same qualifications. The electors shall distinguish for whom they vote as governor and for whom as lieutenant-governor. The lieutenant-governor shall by virtue of his office be president of the Senate, and shall have, when in committee of the whole, a right to debate and vote on all questions; and when the Senate is equally divided to give the casting vote. In case of the death, resignation, removal from office, inability or refusal of the Governor to serve, or of his impeachment or absence from the State, the lieutenant-governor shall exercise the powers and authority appertaining to the office of governor until another be chosen at the periodical election, and be duly qualified; or until the governor, impeached, absent or disabled, shall be acquitted, return, or his disability be removed.

Sec. 17. If, during the vacancy in the office of governor, the lieutenant-governor should die, resign, refuse to serve, or be removed from office, or be unable to serve, or if he shall be impeached or absent from the State, the president of the Senate, for the time being, shall, in like manner, administer the government until he shall be superseded by a governor or lieutenant-governor. The lieutenant-governor shall, while he acts as president of the Senate, receive for his services the same compensation and mileage which shall be allowed to the members of the Senate, and no more; and during the time he administers the government, as governor, he shall receive in like manner the same compensation which the governor would have received had he been employed in the duties of his office, and no more. The president for the time being, of the Senate, shall, during the time he administers the government, receive in like manner the same compensation, which the governor would have received had he been employed in the duties of his office.

Sec. 18. The lieutenant-governor or president of the Senate succeeding to the office of governor, shall, during the entire term to which he may succeed, be under all the restrictions and inhibitions imposed in this Constitution on the governor.

Sec. 19. There shall be a Seal of the State which shall be kept by the secretary of state, and used by him officially under the direction of the governor. The seal of the State shall be a star of five points, encircled by olive and live oak branches, and the words, "The State of Texas."

Sec. 20. All commissions shall be in the name and by the authority of the State of Texas, sealed with the State seal, signed by the governor and attested by the secretary of state.

Sec. 21. There shall be a secretary of state, who shall be appointed by the governor, by and with the advice and consent of the Senate, and who shall continue in office during the term of service of the governor. He shall authenticate the publication of the laws, and keep a fair register of all official acts and proceedings of the governor, and shall, when required, lay the same and all papers, minutes and vouchers relative thereto, before the Legislature, or either house thereof, and shall perform such other duties as may be required of him by law. He shall receive for his services an annual salary of two thousand dollars, and no more.

Sec. 22. The attorney general shall hold his office for two years and until his successor is duly qualified. He shall represent the State in all suits and pleas in the Supreme Court of the State in which the State may be a party, and shall especially inquire into the charter rights of all private cor-

porations, and from time to time in the name of the State, take such action in the courts as may be proper and necessary to prevent any private corporation from exercising any power or demanding or collecting any species of taxes, tolls, freight or wharfage, not authorized by law. He shall, whenever sufficient cause exists, seek a judicial forfeiture of such charters, unless otherwise expressly directed by law, and give legal advice in writing to the governor and other executive officers, when requested by them, and perform such other duties as may be required by law. He shall reside at the seat of government during his continuance in office. He shall receive for his services an annual salary of two thousand dollars, and no more, besides such fees as may be prescribed by law; provided, that the fees which he may receive shall not amount to more than two thousand dollars annually.

Sec. 23. The comptroller of public accounts, the treasurer and the commissioner of the general land office shall each hold office for the term of two years, and until his successor is qualified; receive an annual salary of two thousand and five hundred dollars, and no more; reside at the capital of the State during his continuance in office; and perform such duties as are or may be required of him by law. They and the secretary of State shall not receive to their own use any fees, costs or perquisites of office. All fees that may be payable by law for any service performed by any officer specified in this section, or in his office, shall be paid, when received, into the State treasury.

Sec. 24. An account shall be kept by the officers of the executive department, and by all officers and managers of State institutions, of all moneys and choses in action received and disbursed or otherwise disposed of by them, severally, from all sources, and for every service performed; and a semi-annual report thereof shall be made to the governor under oath. The governor may, at any time, require information in writing from any and all of said officers or managers, upon any subject relating to the duties, condition, management and expenses of their respective offices and institutions, which information shall be required by the governor under oath, and the governor may also inspect their books, accounts, vouchers and public funds; and any officer or manager who, at any time, shall willfully make a false report or give false information, shall be guilty of perjury, and so adjudged and punished accordingly, and removed from office.

Sec. 25. The Legislature shall pass efficient laws facilitating the investigation of breaches of trust and duty by all custodians of public funds, and providing for their suspension from office on reasonable cause shown, and for the appoint-

ment of temporary incumbents of their offices during such suspension.

Sec. 26. The governor, by and with the advice and consent of two-thirds of the Senate, shall appoint a convenient number of notaries public for each county, who shall perform such duties as now are or may be prescribed by law.

ARTICLE V.

Judicial Department.

Section 1. The judicial power of this State shall be vested in one Supreme Court, in a Court of Appeals, in District Courts, in County Courts, in Commissioners Courts, in Courts of Justices of the Peace, and in such other courts as may be established by law. The Legislature may establish Criminal District Courts with such jurisdiction as it may prescribe, but no such court shall be established unless the district includes a city containing at least thirty thousand inhabitants as ascertained by the census of the United States or other official census; provided, such town or city shall support said Criminal District Courts when established. The Criminal District Court of Galveston and Harris counties shall continue with the district, jurisdiction and organization now existing by law, until otherwise provided by law.

Sec. 2. The Supreme Court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and the concurrence of two judges shall be necessary to the decision of a case. No person shall be eligible to the office of chief justice or associate justice of the Supreme Court unless he be at the time of his election a citizen of the United States and of this State, and unless he shall have attained the age of thirty years, and shall have been a practicing lawyer or a judge of a court in this State, or such lawyer and judge together, at least seven years. Said chief justice and associate justices shall be elected by the qualified voters of the State at a general election, shall hold their offices for six years, and shall each receive an annual salary of not more than three thousand five hundred and fifty dollars. In case of a vacancy in the office of chief justice or associate justice of the Supreme Court, the governor shall fill the vacancy until the next general election for State officers, and at such general election the vacancy for the unexpired term shall be filled by election by the qualified voters of the State.

Sec. 3. The Supreme Court shall have appellate jurisdiction only, which shall be co-extensive with the limits of the State; but shall only extend to civil cases of which the Dis-

strict Courts have original or appellate jurisdiction. Appeals may be allowed from the interlocutory judgments of the District Courts, in such cases and under such regulations as may be provided by law. The Supreme Court and the judges thereof shall have power to issue, under such regulations as may be prescribed by law, the writ of mandamus and all other writs necessary to enforce the jurisdiction of said court. The Supreme Court shall have power upon affidavit or otherwise, as by the court may be thought proper, to ascertain such matters of fact as may be necessary to the proper exercise of its jurisdiction. The Supreme Court shall sit for the transaction of business from the first Monday in October until the last Saturday of June of every year, at the seat of government, and at not more than two other places in the State.

Sec. 4. The Supreme Court shall appoint a clerk for each place at which it may sit, and each of said clerks shall give bond in such manner as is now or may hereafter be required by law; shall hold his office for four years, and shall be subject to removal by said court for good cause entered of record on the minutes of said court.

Sec. 5. The Court of Appeals shall consist of three judges, any two of whom may constitute a quorum, and a concurrence of two judges shall be necessary to a decision of said court. They shall be elected by the qualified voters of the State at a general election. They shall be citizens of the United States and of this State; shall have arrived at the age of thirty years at the time of election; each shall have been a practicing lawyer, or a judge of a court in this State, or such lawyer and judge together, for at least seven years. Said judges shall hold their offices for a term of six years, and each of them shall receive an annual salary of three thousand five hundred and fifty dollars, which shall not be increased or diminished during their term of office.

Sec. 6. The Court of Appeals shall have appellate jurisdiction co-extensive with the limits of the State in all criminal cases, of whatever grade, and in all civil cases, unless hereafter otherwise provided by law, of which the County Courts have original or appellate jurisdiction. In civil cases its opinions shall not be published unless the publication of such opinions be required by law. The Court of Appeals and the judges thereof shall have power to issue the writ of habeas corpus; and under such regulations as may be prescribed by law, issue such writs as may be necessary to enforce its own jurisdiction. The Court of Appeals shall have power upon affidavits, or otherwise, as by the court may be thought proper, to ascertain such matters of fact as may be necessary to the exercise of its jurisdiction. The Court of Appeals shall sit

for the transaction of business from the first Monday of October until the last Saturday of June of every year, at the capital, and at not more than two other places in the State, at which the Supreme Court shall hold its sessions. The court shall appoint a clerk for each place at which it may sit, and each of said clerks shall give bond in such manner as is now or may hereafter be required by law; shall hold his office for four years, and shall be subject to removal by the said court for good cause, entered of record on the minutes of said court.

Sec. 7. The State shall be divided into twenty-six judicial districts, which may be increased or diminished by the Legislature. For each district there shall be elected, by the qualified voters thereof, at a general election for members of the Legislature, a judge, who shall be at least twenty-five years of age, shall be a citizen of the United States, shall have been a practicing attorney or a judge of a court in this State for the period of four years, and shall have resided in the district in which he is elected for two years next before his election; shall reside in his district during his term of office; shall hold his office for the term of four years; shall receive an annual salary of twenty-five hundred dollars, which shall not be increased or diminished during his term of service; and shall hold the regular terms of court at one place in each county in the district twice in each year, in such manner as may be prescribed by law. The Legislature shall have power by general act to authorize the holding of special terms, when necessary, and to provide for holding more than two terms of the court in any county, for the dispatch of business; and shall provide for the holding of District Courts when the judge thereof is absent, or is from any cause disabled or disqualified from presiding.

Sec. 8. The District Court shall have original jurisdiction in criminal cases of the grade of felony; of all suits in behalf of the State to recover penalties, forfeitures and escheats; of all cases of divorce; in cases of misdemeanors involving official misconduct; of all suits to recover damages for slander or defamation of character; of all suits for the trial of title to land; and for the enforcement of liens thereon; of all suits for trial of right to property levied on by virtue of any writ of execution, sequestration or attachment, when the property levied on shall be equal to or exceed in value five hundred dollars; and of all suits, complaints, or pleas whatever, without regard to any distinction between law and equity, when the matter in controversy shall be valued at, or amount to five hundred dollars exclusive of interest; and the said courts and the judges thereof shall have power to issue writs of habeas

corpus in felony cases, mandamus, injunction, certiorari, and all writs necessary to enforce their jurisdiction. The District Courts shall have appellate jurisdiction and general control in probate matters over the County Court established in each county for appointing guardians, granting letters testamentary and of administration, for settling the accounts of executors, administrators and guardians, and for the transaction of business appertaining to estates; and original jurisdiction and general control over executors, administrators, guardians and minors, under such regulations as may be prescribed by the Legislature. All cases now pending in the Supreme Court, of the which the Court of Appeals has appellate jurisdiction under the provisions of this Article, shall, as soon as practicable after the establishment of said Court of Appeals, be certified, and the records transmitted to the Court of Appeals, and shall be decided by such Court of Appeals as if the same had been originally appealed to such court.

Sec. 9. There shall be a clerk for the District Court of each county, who shall be elected by the qualified voters for the State and county officers, and who shall hold his office for two years, subject to removal by information, or by indictment of a grand jury, and conviction by a petit jury. In case of vacancy the judge of the District Court shall have the power to appoint a clerk, who shall hold until the office can be filled by election.

Sec. 10. In the trial of all causes in the District Courts, the plaintiff or defendant shall, upon application made in open court, have the right of trial by jury; but no jury shall be empaneled in any civil case unless demanded by a party to the case, and a jury fee be paid by the party demanding a jury, for such sum, and with such exceptions as may be prescribed by the Legislature.

Sec. 11. No judge shall sit in any case wherein he may be interested, or where either of the parties may be connected with him by affinity or consanguinity, within such degree as may be prescribed by law, or where he shall have been counsel in the case. When the Supreme Court, or the Appellate Court, or any two of the members of either, shall be thus disqualified to hear and determine any case or cases in said court, the same shall be certified to the governor of the State, who shall immediately commission the requisite number of persons learned in the law, for the trial and determination of said cause or causes. When a judge of the District Court is disqualified by any of the causes above stated, the parties may, by consent, appoint a proper person to try said case; or, upon their failing to do so, a competent person may be appointed to try the same in the county where it is pending, in such

manner as may be prescribed by law. And the district judges may exchange districts, or hold courts for each other, when they may deem it expedient, and shall do so when directed by law. The disqualification of judges of inferior tribunals shall be remedied, and vacancies in their offices shall be filled, as prescribed by law.

Sec. 12. All judges of the Supreme Court, Court of Appeals and District Courts shall, by virtue of their offices, be conservators of the peace throughout the State. The style of all writs and process shall be "The State of Texas." All prosecutions shall be carried on in the name and by the authority of "The State of Texas," and conclude "against the peace and dignity of the State."

Sec. 13. Grand and petit juries in the District Courts shall be composed of twelve men; but nine members of a grand jury shall be a quorum to transact business and present bills. In trials of civil cases, and in trials of criminal cases below the grade of felony in the District Courts, nine members of the jury, concurring, may render a verdict, but when the verdict shall be rendered by less than the whole number, it shall be signed by every member of the jury concurring in it. When, pending the trial of any case, one or more jurors not exceeding three, may die, or be disabled from sitting, the remainder of the jury shall have the power to render the verdict; provided, that the Legislature may change or modify the rule authorizing less than the whole number of the jury to render a verdict.

Sec. 14. The Judicial Districts in this State and the time of holding the courts therein are fixed by ordinance forming part of this Constitution, until otherwise provided by law.

Sec. 15. There shall be established in each county in this State a County Court, which shall be a court of record; and there shall be elected in each county, by the qualified voters, a county judge, who shall be well informed in the law of the State; shall be a conservator of the peace, and shall hold his office for two years, and until his successor shall be elected and qualified. He shall receive as a compensation for his services such fees and perquisites as may be prescribed by law.

Sec. 16. The County Court shall have original jurisdiction in all misdemeanors, of which exclusive original jurisdiction is not given to the Justice's Court, as the same are now or may be hereafter prescribed by law, and when the fine to be imposed shall exceed two hundred dollars; and they shall have exclusive original jurisdiction in all civil cases when the matter in controversy shall exceed in value two hundred dollars, and not exceed five hundred dollars, exclusive of interest; and concurrent jurisdiction with the District Courts, when

the matter in controversy shall exceed five hundred and not exceed one thousand dollars, exclusive of interest, but shall not have jurisdiction of suits for the recovery of land. They shall have appellate jurisdiction in cases, civil and criminal, of which Justice's Courts have original jurisdiction, but of such civil cases only when the judgment of the court appealed from, shall exceed twenty dollars, exclusive of costs, under such regulations as may be prescribed by law. In all appeals from Justice's Courts, there shall be a trial *de novo* in the County Court, and when the judgment rendered or fine imposed by the County Court shall not exceed one hundred dollars such trial shall be final; but if the judgment rendered or fine imposed shall exceed one hundred dollars, as well as in all cases, civil and criminal, of which the County Court has exclusive or concurrent original jurisdiction, an appeal shall lie to the Court of Appeals, under such regulations as may be prescribed by law. The County Courts shall have the general jurisdiction of a Probate Court. They shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators and guardians, transact all business appertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition and distribution of estates of deceased persons, and to apprentice minors as provided by law. And the County Courts, or judges thereof, shall have power to issue writs of mandamus, injunction, and all other writs necessary to the enforcement of the jurisdiction of said courts; and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the County Court, or any other court or tribunal inferior to said court. The County Court shall not have criminal jurisdiction in any county where there is a Criminal District Court, unless expressly conferred by law; and in such counties appeals from Justice's Courts and other inferior courts and tribunals, in criminal cases shall be to the Criminal District Courts under such regulations as may be prescribed by law, and in all such cases an appeal shall lie from such District Court to the Court of Appeals. Any case pending in the County Court, which the county judge may be disqualified to try, shall be transferred to the District Court of the same county for trial; and where there exists any cause disqualifying the county judge for the trial of a cause of which the County Court has jurisdiction, the District Court of such county shall have original jurisdiction of such cause.

Sec. 17. The County Court shall hold a term for civil

business at least once in every two months, and shall dispose of probate business, either in term time or vacation as may be provided by law; and said court shall hold a term for criminal business once in every month as may be provided by law. Prosecutions may be commenced in said court by information filed by the county attorney, or by affidavit, as may be provided by law. Grand juries empaneled in the District Courts shall inquire into misdemeanors, and all indictments therefor returned into the District Courts shall forthwith be certified to the County Courts or other inferior courts, having jurisdiction to try them for trial; and if such indictment be quashed in the County, or other inferior court, the person charged, shall not be discharged if there is probable cause of guilt, but may be held by such court or magistrate to answer an information or affidavit. A jury in the County Court shall consist of six men; but no jury shall be empaneled to try a civil case, unless demanded by one of the parties, who shall pay such jury fee therefor, in advance, as may be prescribed by law, unless he makes affidavit that he is unable to pay the same.

Sec. 18. Each organized county in the State now or hereafter existing, shall be divided from time to time, for the convenience of the people, into precincts, not less than four and not more than eight. The present County Courts shall make the first division. Subsequent divisions shall be made by the Commissioners' Court, provided for by this Constitution. In each such precinct there shall be elected at each biennial election, one justice of the peace and one constable, each of whom shall hold his office for two years and until his successor shall be elected and qualified; provided, that in any precinct in which there may be a city of eight thousand or more inhabitants, there shall be elected two justices of the peace. Each county shall in like manner be divided into four commissioners' precincts, in each of which there shall be elected by the qualified voters thereof one county commissioner, who shall hold his office for two years and until his successor shall be elected and qualified. The county commissioners so chosen, with the county judge, as presiding officer, shall compose the County Commissioners' Court, which shall exercise such powers and jurisdiction over all county business, as is conferred by this Constitution and the laws of this State, or as may be hereafter prescribed.

Sec. 19. Justices of the peace shall have jurisdiction in criminal matters of all cases where the penalty or fine to be imposed by law may not be more than for two hundred dollars, and in civil matters of all cases where the amount in controversy is two hundred dollars or less, exclusive of interest,

of which exclusive original jurisdiction is not given to the District or County Courts; and such other jurisdiction, criminal and civil, as may be provided by law, under such regulations as may be prescribed by law; and appeals to the County Courts shall be allowed in all cases decided in Justices' Courts where the judgment is for more than twenty dollars exclusive of costs, and in all criminal cases; under such regulations as may be prescribed by law. And the justices of the peace shall be ex-officio notaries public; and they shall hold their courts at such times and places as may be provided by law.

Sec. 20. There shall be elected for each county, by the qualified voters, a county clerk, who shall hold his office for two years, who shall be clerk of the County and Commissioners' Courts and recorder of the county, whose duties, perquisites and fees of office shall be prescribed by the Legislature, and a vacancy in whose office shall be filled by the Commissioners' Court, until the next general election for county and State officers; provided, that in counties having a population of less than eight thousand persons there may be an election of a single clerk, who shall perform the duties of district and county clerks.

Sec. 21. A county attorney, for counties in which there is not a resident criminal district attorney, shall be elected by the qualified voters of each county, who shall be commissioned by the governor, and hold his office for the term of two years. In case of vacancy, the Commissioners' Court of the county shall have power to appoint a county attorney until the next general election. The county attorneys shall represent the State in all cases in the district and inferior courts in their respective counties; but if any county shall be included in a district in which there shall be a district attorney, the respective duties of district attorneys and county attorneys shall in such counties be regulated by the Legislature. The Legislature may provide for the election of district attorneys in such districts as may be deemed necessary, and make provision for the compensation of district attorneys, and county attorneys; provided, district attorneys shall receive an annual salary of five hundred dollars, to be paid by the State, and such fees, commissions and perquisites as may be provided by law. County attorneys shall receive as compensation only such fees, commissions and perquisites as may be prescribed by law.

Sec. 22. The Legislature shall have power, by local or general law, to increase, diminish or change the civil and criminal jurisdiction of County Courts; and in cases of any such change of jurisdiction the Legislature shall also conform the jurisdiction of the other courts to such change.

Sec. 23. There shall be elected by the qualified voters of each county a sheriff, who shall hold his office for the term of two years, whose duties and perquisites, and fees of office, shall be prescribed by the Legislature, and vacancies in whose office shall be filled by the Commissioners' Court until the next general election for county or State officers.

Sec. 24. County judges, county attorneys, clerks of the District and County Courts, justices of the peace, constables, and other county officers, may be removed by the judges of the District Courts for incompetency, official misconduct, habitual drunkenness, or other causes defined by law, upon the cause therefor being set forth in writing, and the finding of its truth by a jury.

Sec. 25. The Supreme Court shall have power to make rules and regulations for the government of said court, and the other courts of the State, to regulate proceedings and expedite the dispatch of business therein.

Sec. 26. The State shall have no right of appeal in criminal cases.

Sec. 27. The Legislature shall, at its first session, provide for the transfer of all business, civil and criminal, pending in District Courts, over which jurisdiction is given by this Constitution to the County Courts, or other inferior courts, to such County or inferior courts, and for the trial or disposition of all such causes by such County or other inferior courts.

Sec. 28. Vacancies in the office of judges in the Supreme Court, of the Court of Appeals, and District Court, shall be filled by the governor until the next succeeding general election; and vacancies in the office of county judge, and justices of the peace, shall be filled by the Commissioners' Court, until the next general election for such offices.

ARTICLE VI.—Suffrage.

Section 1. The following classes of persons shall not be allowed to vote in this State, to-wit:

First—Persons under twenty-one years of age.

Second—Idiots and lunatics.

Third—All paupers supported by any county.

Fourth—All persons convicted of any felony, subject to such exceptions as the Legislature may make.

Fifth—All soldiers, marines and seamen, employed in the service of the army or navy of the United States.

Sec. 2. Every male person subject to none of the foregoing disqualifications, who shall have attained the age of twenty-one years, and who shall be a citizen of the United

States, and who shall have resided in this State one year next preceding an election, and the last six months within the district or county in which he offers to vote, shall be deemed a qualified elector; and every male person of foreign birth, subject to none of the foregoing disqualifications, who, at any time before an election, shall have declared his intention to become a citizen of the United States in accordance with the federal naturalization laws, and shall have resided in this State one year next preceding such election, and the last six months in the county in which he offers to vote, shall also be deemed a qualified elector; and all electors shall vote in the election precinct of their residence; provided, that electors living in any unorganized county, may vote at any election precinct in the county to which such county is attached for judicial purposes.

Sec. 3. All qualified electors of the State, as herein described, who shall have resided for six months immediately preceding an election within the limits of any city or corporate town, shall have the right to vote for mayor and all other elective officers; but in all elections to determine expenditure of money or assumption of debt, only those shall be qualified to vote who pay taxes on property in said city or incorporated town; provided, that no poll tax for the payment of debts thus incurred shall be levied upon the persons debarred from voting in relation thereto.

Sec. 4. In all elections by the people the vote shall be by ballot, and the Legislature shall provide for the numbering of tickets and make such other regulations as may be necessary to detect and punish fraud and preserve the purity of the ballot box; but no law shall ever be enacted requiring a registration of the voters of this State.

Sec. 5. Voters shall, in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning therefrom.

ARTICLE VII.—Education— The Public Free Schools.

Section 1. A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the Legislature of the State to establish and make suitable provision for the support and maintenance of an efficient system of public free schools.

Sec. 2. All funds, lands and other property heretofore set apart and appropriated for the support of public schools; all the alternate sections of land reserved by the State out of grants heretofore made or that may hereafter be made to

railroads, or other corporations, of any nature whatsoever; one-half of the public domain of the State; and all sums of money that may come to the State from the sale of any portion of the same, shall constitute a perpetual school fund.

Sec. 3. There shall be set apart annually not more than one-fourth of the general revenue of the State, and a poll tax of one dollar on all male inhabitants in this State between the ages of twenty-one and sixty years, for the benefit of the public free schools.

Sec. 4. The land herein set apart to the public free school fund shall be sold under such regulations, at such times and on such terms as may be prescribed by law; and the Legislature shall not have power to grant any relief to the purchasers thereof. The comptroller shall invest the proceeds of such sales, and of those heretofore made, as may be directed by the Board of Education herein provided for, in the bonds of this State, if the same can be obtained, otherwise in United States bonds; and the United States bonds now belonging to said fund shall likewise be invested in State bonds, if the same can be obtained on terms advantageous to the school fund.

Sec. 5. The principal of all bonds and other funds, and the principal arising from the sale of the lands hereinbefore set apart for said school fund, shall be the permanent school fund; and all the interest derivable therefrom and the taxes herein authorized and levied shall be the available school fund, which shall be applied annually to the support of the public free schools. And no law shall ever be enacted appropriating any part of the permanent or available school fund to any other purpose whatever; nor shall the same or any part thereof ever be appropriated to or used for the support of any sectarian school; and the available school fund herein provided shall be distributed to the several counties according to their scholastic population and applied in manner as may be provided by law.

Sec. 6. All lands heretofore or hereafter granted to the several counties of this State for education or schools, are of right the property of said counties respectively to which they were granted, and title thereto is vested in said counties, and no adverse possession or limitation shall ever be available against the title of any county. Each county may sell or dispose of its lands in whole or in part, in manner to be provided by the Commissioners' Court of the county. Actual settlers residing on said lands shall be protected in the prior right of purchasing the same to the extent of their settlement, not to exceed one hundred and sixty acres, at the price fixed by said court, which price shall not include the value of existing improvements made thereon by such settlers. Said

lands and the proceeds thereof, when sold, shall be held by said counties alone as a trust for the benefit of public schools therein; said proceeds to be invested in bonds of the State of Texas, or of the United States, and only the interest thereon to be used and expended annually.

Sec. 7. Separate schools shall be provided for the white and colored children, and impartial provision shall be made for both.

Sec. 8. The governor, comptroller and secretary of state shall constitute a Board of Education, who shall distribute said funds to the several counties and perform such other duties concerning public schools as may be prescribed by law.

Asylums.

Sec. 9. All lands heretofore granted for the benefit of the Lunatic, Blind, Deaf and Dumb, and Orphan Asylums, together with such donations as may have been or may hereafter be made to either of them, respectively, as indicated in the several grants, are hereby set apart to provide a permanent fund for the support, maintenance and improvement of said asylums. And the Legislature may provide for the sale of the lands and investment of the proceeds in manner as provided for the sale and investment of school lands in section 4 of this Article.

University.

Sec. 10. The Legislature shall, as soon as practicable, establish, organize and provide for the maintenance, support and direction of a university of the first class, to be located by a vote of the people of this State, and styled "The University of Texas," for the promotion of literature, and the arts and sciences, including an agricultural and mechanical department.

Sec. 11. In order to enable the Legislature to perform the duties set forth in the foregoing section, it is hereby declared that all lands and other property heretofore set apart and appropriated for the establishment and maintenance of "The University of Texas," together with all the proceeds of sales of the same, heretofore made or hereafter to be made, and all grants, donations and appropriations that may hereafter be made by the State of Texas, or from any other source, shall constitute and become a permanent university fund. And the same as realized and received into the treasury of

the State, (together with such sums, belonging to the fund, as may now be in the treasury), shall be invested in bonds of the State of Texas, if the same can be obtained; if, not, then in United States bonds, and the interest accruing thereon shall be subject to appropriation by the Legislature to accomplish the purpose declared in the foregoing section; provided, that one-tenth of the alternate sections of the lands granted to railroads, reserved by the State, which were set apart and appropriated to the establishment of "The University of Texas," by an act of the Legislature of February 11, 1858, entitled "An act to establish 'The University of Texas,'" shall not be included in or constitute a part of the permanent university fund.

Sec. 12. The land herein set apart to the university fund shall be sold under such regulations, at such times, and on such terms, as may be provided by law; and the Legislature shall provide for the prompt collection, at maturity, of all debts due on account of university lands, heretofore sold, or that may hereafter be sold, and shall in neither event have the power to grant relief to the purchasers.

Sec. 13. The Agricultural and Mechanical College of Texas, established by an act of the Legislature, passed April 17, 1871, located in the county of Brazos, is hereby made, and constituted a branch of the University of Texas, for instruction in agriculture, the mechanic arts and the natural sciences connected therewith. And the Legislature shall, at its next session, make an appropriation, not to exceed forty thousand dollars for the construction and completion of the buildings and improvements, and for providing the furniture necessary to put said college in immediate and successful operation.

Sec. 14. The Legislature shall also when deemed practicable, establish and provide for the maintenance of a College or Branch University for the instruction of the colored youths of the State, to be located by a vote of the people; provided, that no tax shall be levied, and no money appropriated out of the general revenue, either for this purpose or for the establishment and erection of the buildings of the University of Texas.

Sec. 15. In addition to the lands heretofore granted to the University of Texas, there is hereby set apart, and appropriated, for the endowment, maintenance and support of said University and its branches, one million acres of the unappropriated public domain of the State, to be designated and surveyed as may be provided by law; and said lands shall be sold under the same regulations, and the proceeds invested

in the same manner as is provided for the sale and investment of the permanent University fund; and the Legislature shall not have power to grant any relief to the purchasers of said lands.

ARTICLE VIII.—Taxation and Revenue.

Section 1. Taxation shall be equal and uniform. All property in this State, whether owned by natural persons or corporations, other than municipal, shall be taxed in proportion to its value, which shall be ascertained as may be provided by law. The Legislature may impose a poll tax. It may also impose occupation taxes, both upon natural persons and upon corporations, other than municipal, doing any business in this State. It may also tax incomes of both natural persons and corporations, other than municipal, except that persons engaged in mechanical and agricultural pursuits shall never be required to pay an occupation tax; provided, that two hundred and fifty dollars worth of household and kitchen furniture, belonging to each family in this State, shall be exempt from taxation, and provided further that the occupation tax levied by any county, city or town, for any year, on persons or corporations pursuing any profession or business, shall not exceed one-half of the tax levied by the State for the same period on such profession or business.

Sec. 2. All occupation taxes shall be equal and uniform upon the same class of subjects within the limits of the authority levying the tax; but the Legislature may, by general laws, exempt from taxation public property used for public purposes; actual places of religious worship; places of burial not held for private or corporate profit; all buildings used exclusively and owned by persons or associations of persons for school purposes, (and the necessary furniture of all schools,) and institutions of purely public charity; and all laws exempting property from taxation other than the property above mentioned, shall be void.

Sec. 3. Taxes shall be levied and collected by general laws and for public purposes only.

Sec. 4. The power to tax corporations and corporate property shall not be surrendered or suspended by act of the Legislature, by any contract or grant to which the State shall be a party.

Sec. 5. All property of railroad companies, of whatever description, lying or being within the limits of any city or incorporated town within this State, shall bear its proportionate share of municipal taxation, and if any such property shall not have been heretofore rendered, the authorities of the

city or town within which it lies, shall have power to require its rendition, and collect the usual municipal tax thereon, as on other property lying within said municipality.

Sec. 6. No money shall be drawn from the treasury but in pursuance of specific appropriations made by law; nor shall any appropriation of money be made for a longer term than two years, except by the first Legislature to assemble under this Constitution, which may make the necessary appropriations to carry on the government until the assemblage of the Sixteenth Legislature.

Sec. 7. The Legislature shall not have power to borrow, or in any manner divert from its purpose any special fund that may, or ought to, come into the treasury; and shall make it penal for any person or persons to borrow, withhold, or in any manner to divert from its purpose, any special fund, or any part thereof.

Sec. 8. All property of railroad companies shall be assessed, and the taxes collected in the several counties in which said property is situated, including so much of the roadbed and fixtures as shall be in each county. The rolling stock may be assessed in gross in the county where the principal office of the company is located, and the county tax paid upon it shall be apportioned by the comptroller, in proportion to the distance such road may run through any such county, among the several counties through which the road passes, as a part of their tax assets.

Sec. 9. The State tax, on property, exclusive of the tax necessary to pay the public debt, shall never exceed fifty cents on the one hundred dollars valuation, and no county, city or town shall levy more than one-half of said State tax, except for the payment of debts already incurred, and for the erection of public buildings, not to exceed fifty cents on the one hundred dollars in any one year, and except as in this Constitution is otherwise provided.

Sec. 10. The Legislature shall have no power to release the inhabitants of, or property in, any county, city or town, from the payment of taxes levied for State or county purposes, unless in case of great public calamity in any such county, city or town, when such release may be made by a vote of two-thirds of each house of the Legislature.

Sec. 11. All property, whether owned by persons or corporations, shall be assessed for taxation, and the taxes paid in the county where situated, but the Legislature may by a two-thirds vote, authorize the payment of taxes of non-residents of counties to be made at the office of the comptroller of public accounts. And all lands and other property not

rendered for taxation by the owner thereof shall be assessed at its fair value by the proper officer.

Sec. 12. All property subject to taxation in, and owned by residents of unorganized counties, shall be assessed and the taxes thereon paid in the counties to which such unorganized counties shall be attached for judicial purposes; and lands lying in and owned by non-residents of unorganized counties, and lands lying in the territory not laid off into counties, shall be assessed and the taxes thereon collected at the office of the comptroller of the State.

Sec. 13. Provision shall be made by the first Legislature for the speedy sale of a sufficient portion of all lands and other property for the taxes due thereon, and every year thereafter for the sale of all lands and other property upon which the taxes have not been paid, and the deed of conveyance to the purchaser for all lands and other property thus sold shall be held to vest a good and perfect title in the purchaser thereof, subject to be impeached only for actual fraud; provided, that the former owner shall, within two years from date of purchaser's deed, have the right to redeem the land upon the payment of double the amount of money paid for the land.

Sec. 14. There shall be elected by the qualified electors of each county, at the same time and under the same law regulating the election of State and county officers, an assessor of taxes, who shall hold his office for two years and until his successor is elected and qualified.

Sec. 15. The annual assessment made upon landed property shall be a special lien thereon, and all property, both real and personal, belonging to any delinquent taxpayer, shall be liable to seizure and sale for the payment of all the taxes and penalties due by such delinquent; and such property may be sold for the payment of the taxes and penalties due by such delinquent, under such regulations as the Legislature may provide.

Sec. 16. The sheriff of each county in addition to his other duties, shall be the collector of taxes therefor. But in counties having ten thousand inhabitants, to be determined by the last preceding census of the United States, a collector of taxes shall be elected to hold office for two years and until his successor shall be elected and qualified.

Sec. 17. The specification of the objects and subjects of taxation shall not deprive the Legislature of the power to require other subjects or objects to be taxed in such manner as may be consistent with the principles of taxation fixed in this Constitution.

Sec. 18. The Legislature shall provide for equalizing, as

near as may be, the valuation of all property subject to or rendered for taxation, (the County Commissioner's Court to constitute a board of equalization); and may also provide for the classification of all lands with reference to their value in the several counties.

ARTICLE IX.—Counties.

Section 1. The Legislature shall have power to create counties for the convenience of the people, subject to the following provisions:

First. In the territory of the State exterior to all counties now existing, no new counties shall be created with a less area than nine hundred square miles, in a square form, unless prevented by pre-existing boundary lines. Should the State lines render this impracticable in border counties, the area may be less. The territory referred to may, at any time, in whole or in part, be divided into counties in advance of population, and attached, for judicial and land surveying purposes, to the most convenient organized county or counties.

Second. Within the territory of any county or counties now existing, no new county shall be created with a less area than seven hundred square miles, nor shall any such county now existing be reduced to a less area than seven hundred square miles. No new counties shall be created so as to approach nearer than twelve miles of the county seat of any county from which it may, in whole or in part, be taken. Counties of a less area than nine hundred, but of seven hundred or more square miles, within counties now existing, may be created by a two-thirds vote of each house of the Legislature, taken by yeas and nays, and entered on the journals. Any county now existing may be reduced to an area of not less than seven hundred square miles by a like two-thirds vote. When any part of a county is stricken off and attached to or created into another county, the part stricken off shall be holden for and obliged to pay its proportion of all the liabilities then existing of the county from which it was taken, in such manner as may be prescribed by law.

Third. No part of any existing county shall be detached from it and attached to another existing county until the proposition for such change shall have been submitted, in such manner as may be provided by law, to a vote of the electors of both counties, and shall have received a majority of those voting on the question in each.

County Seats.

Sec. 2. The Legislature shall pass laws regulating the manner of removing county seats, but no county seat situated within five miles of the geographical centre of the county shall be removed, except by a vote of two-thirds of all the electors voting on the subject. A majority of such electors, however, voting at such election, may remove a county seat from a point more than five miles from the geographical centre of the county to a point within five miles of such centre, in either case the centre to be determined by a certificate from the commissioner of the general land office.

ARTICLE X.—Railroads.

Section 1. Any railroad corporation or association, organized under the law for the purpose, shall have the right to construct and operate a railroad between any points within this State, and to connect at the State line with railroads of other States. Every railroad company shall have the right, with its road, to intersect, connect with or cross any other railroad; and shall receive and transport each the others passengers, tonnage and cars, loaded or empty, without delay or discrimination, under such regulations as shall be prescribed by law.

Sec. 2. Railroads heretofore constructed, or that may hereafter be constructed in this State, are hereby declared public highways, and railroad companies common carriers. The Legislature shall pass laws to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this State; and shall from time to time pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on said railroads, and enforce all such laws by adequate penalties.

Sec. 3. Every railroad or other corporation, organized or doing business in this State under the laws or authority thereof, shall have and maintain a public office or place in this State for the transaction of its business, where transfers of stock shall be made, and where shall be kept, for inspection by the stockholders of such corporations, books, in which shall be recorded the amount of capital stock subscribed, the names of the owners of the stock, the amounts owned by them respectively, the amount of stock paid, and by whom, the transfer of said stock, with the date of the transfer, the amount of its assets and liabilities, and the names and places

of residence of its officers. The directors of every railroad company shall hold one meeting annually in this State, public notice of which shall be given thirty days previously, and the president or superintendent shall report annually, under oath, to the comptroller or governor, their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law. The Legislature shall pass laws enforcing by suitable penalties the provisions of this section.

Sec. 4. The rolling stock and all other movable property belonging to any railroad company or corporation in this State shall be considered personal property, and its real and personal property, or any part thereof, shall be liable to execution and sale in the same manner as the property of individuals; and the Legislature shall pass no laws exempting any such property from execution and sale.

Sec. 5. No railroad or other corporation, or the lessees, purchasers or managers of any railroad corporation, shall consolidate the stock, property or franchises of such corporation, with, or lease or purchase the works or franchises of, or in any way control any railroad corporation owning or having under its control a parallel or competing line; nor shall any officer of such railroad corporation act as an officer of any other railroad corporation owning or having the control of a parallel or competing line.

Sec. 6. No railroad company organized under the laws of this State shall consolidate by private or judicial sale or otherwise with any railroad company organized under the laws of any other State or of the United States.

Sec. 7. No law shall be passed by the Legislature granting the right to construct and corporate a street railroad within any city, town, or village, or upon any public highway, without first acquiring the consent of the local authorities having control of the street or highway proposed to be occupied by such street railroad.

Sec. 8. No railroad corporation in existence at the time of the adoption of this Constitution, shall have the benefit of any future legislation, except on condition of complete acceptance of all the provisions of this Constitution applicable to railroads.

Sec. 9. No railroad hereafter constructed in this State shall pass within a distance of three miles of any county seat without passing through the same, and establishing and maintaining a depot therein, unless prevented by natural obstacles, such as streams, hills or mountains; provided, such town or its citizens shall grant the right of way through its limits and sufficient ground for ordinary depot purposes.

ARTICLE XI.—Municipal Corporations.

Section 1. The several counties of this State are hereby recognized as legal subdivisions of the State.

Sec. 2. The construction of jails, court-houses and bridges, and the establishment of county poor houses and farms, and the laying out, construction and repairing of county roads shall be provided for by general laws.

Sec. 3. No county, city or other municipal corporation shall hereafter become a subscriber to the capital of any private corporation or association, or make any appropriation or donation to the same, or in anywise loan its credit; but this shall not be construed to in any way affect any obligation heretofore undertaken pursuant to law.

Sec. 4. Cities and towns having a population of ten thousand inhabitants or less, may be chartered alone by general law. They may levy, assess and collect an annual tax to defray the current expenses of their local government, but such tax shall never exceed, for any one year, one-fourth of one per cent., and shall be collectable only in current money. And all license and occupation tax levied, and all fines, forfeitures, penalties and other dues accruing to cities and towns shall be collectable only in current money.

Sec. 5. Cities having more than ten thousand inhabitants may have their charters granted or amended by special act of the Legislature, and may levy, assess and collect such taxes as may be authorized by law, but no tax for any purpose shall ever be lawful, for any one year, which shall exceed two and one-half per cent. of the taxable property of such city; and no debt shall ever be created by any city, unless at the same time provision be made to assess and collect annually a sufficient sum to pay the interest thereon and create a sinking fund of at least two per cent. thereon.

Sec. 6. Counties, cities and towns are authorized, in such mode as may now or may hereafter be provided by law, to levy, assess and collect the taxes necessary to pay the interest and provide a sinking fund to satisfy any indebtedness heretofore legally made and undertaken; but all such taxes shall be assessed and collected separately from that levied, assessed and collected for current expenses of municipal government, and shall when levied specify in the act of levying the purpose therefor, and such taxes may be paid in the coupons, bonds or other indebtedness for the payment of which such tax may have been levied.

Sec. 7. All counties and cities bordering on the coast of the Gulf of Mexico, are hereby authorized, upon a vote of

two-thirds of the taxpayers therein (to be ascertained as may be provided by law) to levy and collect such tax for construction of sea walls, breakwaters, or sanitary purposes, as may be authorized by law, and may create a debt for such works and issue bonds in evidence thereof. But no debt for any purpose shall ever be incurred in any manner by any city or county, unless provision is made at the time of creating the same, for levying and collecting a sufficient tax to pay the interest thereon and provide at least two per cent. as a sinking fund; and the condemnation of the right of way for the erection of such works shall be fully provided for.

Sec. 8. The counties and cities on the Gulf coast being subject to calamitous overflows, and a very large proportion of the general revenue being derived from those otherwise prosperous localities, the Legislature is especially authorized to aid by donation of such portion of the public domain as may be deemed proper, and in such mode as may be provided by law, the construction of sea walls, or breakwaters, such aid to be proportioned to the extent and value of the works constructed, or to be constructed, in any locality.

Sec. 9. The property of counties, cities and towns owned and held only for public purposes, such as public buildings and the sites therefor, fire engines and the furniture thereof, and all property used, or intended for extinguishing fires, public grounds and all other property devoted exclusively to the use and benefit of the public shall be exempt from forced sale and from taxation; provided, nothing herein shall prevent the enforcement of the vendor's lien, the mechanic's or builder's lien, or other liens now existing.

Sec. 10. The Legislature may constitute any city or town a separate and independent school district. And when the citizens of any city or town have a charter, authorizing the city authorities to levy and collect a tax for the support and maintenance of a public institution of learning, such tax may hereafter be levied and collected, if, at any election held for that purpose, two-thirds of the tax-payers of such city or town shall vote for such tax.

ARTICLE XII.—Private Corporations.

Section 1. No private corporations shall be created except by general laws.

Sec. 2. General laws shall be enacted providing for the creation of private corporations, and shall therein provide fully for the adequate protection of the public and of the individual stockholders.

Sec. 3. The right to authorize and regulate freights, tolls,

wharfage or fares levied and collected or proposed to be levied and collected by individuals, companies or corporations, for the use of highways, landings, wharves, bridges and ferries, devoted to public use, has never been and shall never be relinquished or abandoned by the State, but shall always be under legislative control and depend upon legislative authority.

Sec. 4. The first Legislature assembled after the adoption of this Constitution shall provide a mode of procedure by the attorney general and district or county attorneys, in the name and behalf of the State, to prevent and punish the demanding and receiving or collection of any and all charges as freight, wharfage, fares, or tolls, for the use of property devoted to the public, unless the same shall have been specially authorized by law.

Sec. 5. All laws granting the right to demand and collect freights, fares, tolls or wharfage shall at all times be subject to amendment, modification or repeal by the Legislature.

Sec. 6. No corporation shall issue stock or bonds except for money paid, labor done or property actually received, and all fictitious increase of stock or indebtedness shall be void.

Sec. 7. Nothing in this article shall be construed to divest or affect rights guaranteed by any existing grant or statute of this State, or of the Republic of Texas.

ARTICLE XIII.—Spanish and Mexican Land Titles.

Section 1. All fines, penalties, forfeitures and escheats, which have heretofore accrued to the Republic and State of Texas, under their constitutions and laws, shall accrue to the State under this Constitution; and the Legislature shall provide a method for determining what lands have been forfeited, and for giving effect to escheats; and all such rights of forfeiture and escheats to the State shall ipso facto, inure to the protection of the innocent holders of junior titles, as provided in sections 2, 3 and 4 of this Article.

Sec. 2. Any claim of title or right to land in Texas, issued prior to the 13th day of November 1835, not duly recorded in the county where the land was situated at the time of such record; or not duly archived in the general land office; or not in the actual possession of the grantee thereof, or some person claiming under him, prior to the accruing of junior title thereto from the sovereignty of the soil, under circumstances reasonably calculated to give notice to said junior grantee, has never had, and shall not have, standing or effect against such junior title, or color of title, acquired without such or actual notice of such prior claim of title or right; and no condi-

tion annexed to such grants, not archived, or recorded, or occupied as aforesaid, has been, or ever shall be released or waived, but actual performance of all such conditions shall be proved by the person or persons claiming under such title or claim of right in order to maintain action thereon, and the holder of such junior title, or color of title, shall have all the rights of the government which have heretofore existed, or now exist, arising from the non-performance of all such conditions.

Sec. 3. Non-payment of taxes on any claim of title to land, dated prior to the 13th day of November, 1835, not recorded or archived, as provided in section 2, by the person or persons so claiming, or those under whom he or they so claim, from that date up to the date of the adoption of this Constitution, shall be held to be a presumption that the right thereto has reverted to the State, and that said claim is a stale demand, which presumption shall only be rebutted by payment of all taxes on said lands, State, county, and city or town, to be assessed on the fair value of such lands by the comptroller, and paid to him, without commutation or deduction for any part of the above period.

Section 4. No claim of title or right to land, which issued prior to the 13th day of November, 1835, which has not been duly recorded in the county where the land was situated at the time of such record, or which has not been duly archived in the general land office, shall ever hereafter be deposited in the general land office, or recorded in this State, or delineated on the maps, or used as evidence in any of the courts of this State, and the same are stale claims; but this shall not affect such rights or presumptions as arise from actual possession. By the words, "duly recorded," as used in sections 2 and 4 of this Article, it is meant that such claim of title or right to land shall have been recorded in the proper office, and that mere errors in the certificate of registration, or informality, not affecting the fairness and good faith of the holder thereof, with which the record was made, shall not be held to vitiate such record.

Sec. 5. All claims, locations, surveys, grants and titles, of any kind, which are declared null and void by the Constitution of the Republic or State of Texas, are, and the same shall remain forever null and void.

Sec. 6. The Legislature shall pass stringent laws for the detection and conviction of all forgers of land titles, and may make such appropriations of money for that purpose as may be necessary.

Sec. 7. Sections 2, 3, 4 and 5 of this Article, shall not be so construed as to set aside or repeal any law or laws of the Re-

public or State of Texas, releasing the claimants of headrights of colonists of a league of land, or less, from compliance with the conditions on which their grants were made.

ARTICLE XIV.—Public Lands and Land Office.

Section 1. There shall be one general land office in the State, which shall be at the seat of government, where all land titles which have emanated or may hereafter emanate from the State shall be registered, except those titles the registration of which may be prohibited by this Constitution. It shall be the duty of the Legislature at the earliest practicable time to make the land office self-sustaining, and from time to time the Legislature may establish such subordinate offices as may be deemed necessary.

Sec. 2. All unsatisfied genuine land certificates barred by section 4, Article 10, of the Constitution of 1869, by reason of the holders or owners thereof failing to have them surveyed and returned to the land office by the first day of January, 1875, are hereby revived. All unsatisfied genuine land certificates now in existence shall be surveyed and returned to the general land office within five years after the adoption of this Constitution, or be forever barred; and all genuine land certificates hereafter issued by the State shall be surveyed and returned to the general land office within five years after issuance, or be forever barred; provided, that all genuine land certificates heretofore or hereafter issued shall be located, surveyed or patented only upon vacant and unappropriated public domain, and not upon any land titled or equitably owned under color of title from the sovereignty of the State, evidence of the appropriation of which is on the county records or in the general land office; or when the appropriation is evidenced by the occupation of the owner, or of some person holding for him.

Sec. 3. The Legislature shall have no power to grant any of the lands of this State to any railway company except upon the following restrictions and conditions:

First. That there shall never be granted to any such corporation more than sixteen sections to the mile, and no reservation of any part of the public domain for the purpose of satisfying such grant shall ever be made.

Second. That no land certificate shall be issued to such company until they have equipped, constructed and in running order at least ten miles of road, and on the failure of such company to comply with the terms of its charter or to alienate its land at a period to be fixed by law, in no event to exceed twelve years from the issuance of the patent, all said land

shall be forfeited to the State and become a portion of the public domain, and liable to location and survey. The Legislature shall pass general laws only, to give effect to the provisions of this section.

Sec. 4. No certificate for land shall be sold at the land office except to actual settlers upon the same, and in lots not to exceed one hundred and sixty acres.

Sec. 5. All lands heretofore or hereafter granted to railway companies, where the charter or law of the State required or shall hereafter require their alienation within a certain period, on pain of forfeiture, or is silent on the subject of forfeiture, and which lands have not been or shall not hereafter be alienated, in conformity with the terms of their charters, and the laws under which the grants were made, are hereby declared forfeited to the State and subject to pre-emption, location and survey, as other vacant lands. All lands heretofore granted to said railroad companies to which no forfeiture was attached, on their failure to alienate, are not included in the foregoing clause, but in all such last named cases it shall be the duty of the attorney general, in every instance where alienations have been or hereafter may be made, to inquire into the same, and if such alienation has been made in fraud of the rights of the State, and is colorable only, the real and beneficial interest being still in such corporation, to institute legal proceedings in the county where the seat of government is situated to forfeit such lands to the State, and if such alienation be judicially ascertained to be fraudulent and colorable as aforesaid, such lands shall be forfeited to the State and become a part of the vacant public domain, liable to pre-emption, location and survey.

Sec. 6. To every head of a family without a homestead there shall be donated one hundred and sixty acres of public land, upon condition that he will select and locate said land, and occupy the same three years, and pay the office fees due thereon. To all single men of eighteen years of age and upwards shall be donated eighty acres of public land, upon the terms and conditions prescribed for heads of families.

Sec. 7. The State of Texas hereby releases to the owner or owners of the soil all mines and minerals that may be on the same, subject to taxation as other property.

Sec. 8. Persons residing between the Nueces river and the Rio Grande, and owing grants for lands which emanated from the government of Spain, or that of Mexico, which grants have been recognized and validated by the State, by acts of the Legislature, approved February 10, 1852, August 15, 1870, and other acts, and who have been prevented from complying with the requirements of said acts by the unsettled condi-

tion of the country, shall be allowed until the first day of January, 1880, to complete their surveys, and the plats thereof, and to return their field notes to the general land office; and all claimants failing to do so shall be forever barred; provided, nothing in this section shall be so construed as to validate any titles not already valid, or to interfere with the rights of third persons.

ARTICLE XV.

Impeachment.

Section 1. The power of impeachment shall be vested in the House of Representatives.

Sec. 2. Impeachment of the governor, lieutenant governor, attorney general, treasurer, commissioner of the general land office, comptroller, and the judges of the Supreme Court, Court of Appeals and District Court shall be tried by the Senate.

Sec. 3. When the Senate is sitting as a Court of Impeachment, the senators shall be on oath, or affirmation, impartially to try the the party impeached, and no person shall be convicted without the concurrence of two-thirds of the senators present.

Sec. 4. Judgment in cases of impeachment shall extend only to removal from office, and disqualification from holding any office of honor, trust, or profit, under this State. A party convicted on impeachment shall also be subject to indictment, trial and punishment, according to law.

Sec. 5. All officers against whom articles of impeachment may be preferred shall be suspended from the exercise of the duties of their office, during the pendency of such impeachment. The governor may make a provisional appointment to fill the vacancy, occasioned by the suspension of an officer until the decision on the impeachment.

Sec. 6. Any judge of the District Courts of the State who is incompetent to discharge the duties of his office, or who shall be guilty of partiality, or oppression, or other official misconduct, or whose habits and conduct are such as to render him unfit to hold such office, or who shall negligently fail to perform his duties as judge, or who shall fail to execute in a reasonable measure the business in his courts, may be removed by the Supreme Court. The Supreme Court shall have original jurisdiction to hear and determine the causes aforesaid when presented in writing upon the oaths taken before some judge of a court of record of not less than ten lawyers, practicing in the courts held by such judge, and licensed to

practice in the Supreme Court; said presentment to be founded, either upon the knowledge of the persons making it or upon the written oaths as to the facts of creditable witnesses. The Supreme Court may issue all needful process and prescribe all needful rules to give effect to this section. Causes of this kind shall have precedence and be tried as soon as practicable.

Sec. 7. The Legislature shall provide by law for the trial and removal from office of all officers of this State, the modes for which have not been provided in this Constitution.

ADDRESS.

Sec. 8. The Judges of the Supreme Court, Court of Appeals and District Courts, shall be removed by the governor on the address of two-thirds of each house of the Legislature, for wilful neglect of duty, incompetency, habitual drunkenness, oppression in office, or other reasonable cause which shall not be sufficient ground for impeachment; provided, however, that the cause or causes for which such removal shall be required shall be stated at length in such address and entered on the journals of each house; and provided further, that the cause or causes shall be notified to the judge so intended to be removed, and he shall be admitted to a hearing in his own defense before any vote for such address shall pass; and in all such cases, the vote shall be taken by yeas and nays and entered on the journals of each house respectively.

ARTICLE XVI.

General Provisions.

Section 1. Members of the Legislature, and all officers, before they enter upon the duties of their offices, shall take the following oath or affirmation: "I, (——) do solemnly swear, (or affirm), that I will faithfully and impartially discharge and perform all the duties incumbent upon me as —— according to the best of my skill and ability, agreeably to the Constitution and laws of the United States and of this State; and I do further solemnly swear (or affirm). that since the adoption of the Constitution of this State, I being a citizen of this State, have not fought a duel with deadly weapons, within this State nor out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have I acted as second in carrying a challenge, or aided, advised or assisted any person thus offending. And I furthermore solemnly swear, (or affirm), that I have not directly, nor indirectly paid, offered or promised to pay, contributed, nor promised to contribute any money, or valuable thing, or

promised any public office or employment, as a reward for the giving or withholding a vote at the election at which I was elected, (or if the office is one of appointment, to secure my appointment.) So help me God."

Sec. 2. Laws shall be made to exclude from office, serving on juries, and from the right of suffrage, those who may have been or shall hereafter be convicted of bribery, perjury, forgery, or other high crimes. The privilege of free suffrage shall be protected by laws regulating elections and prohibiting under adequate penalties all undue influence therein from power, bribery, tumult, or other improper practice.

Sec. 3. The Legislature shall make provisions whereby persons convicted of misdemeanors and committed to the county jails in default of payment of fines and costs, shall be required to discharge such fines and costs by manual labor, under such regulations as may be prescribed by law.

Sec. 4. Any citizen of this State who shall, after the adoption of this Constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within this State or out of it, or who shall act as second, or knowingly assist in any manner those thus offending, shall be deprived of the right of suffrage, or of holding any office of trust or profit under this State.

Sec. 5. Every person shall be disqualified from holding any office of profit, or trust, in this State, who shall have been convicted of having given or offered a bribe to procure his election or appointment.

Sec. 6. No appropriation for private or individual purposes shall be made. A regular statement under oath, and an account of the receipts and expenditures of all public money shall be published annually, in such manner as shall be prescribed by law.

Sec. 7. The Legislature shall, in no case, have power to issue "Treasury Warrants," "Treasury Notes," or paper of any description intended to circulate as money.

Sec. 8. Each county in the State may provide, in such manner as may be prescribed by law, a manual labor poor-house and farm, for taking care of, managing, employing and supplying the wants of its indigent and poor inhabitants.

Sec. 9. Absence on business of the State, or of the United States, shall not forfeit a residence once obtained, so as to deprive any one of the right of suffrage, or of being elected or appointed to any office, under the exceptions contained in this Constitution.

Sec. 10. The Legislature shall provide for deductions from the salaries of public officers who may neglect the performance of any duty that may be assigned them by law.

Sec. 11. The legal rate of interest shall not exceed eight per cent. per annum, in the absence of any contract as to the rate of interest; and by contract parties may agree upon any rate not to exceed twelve per cent. per annum. All interest charged above this last named rate shall be deemed usurious, and the Legislature shall, at its first session, provide appropriate pains and penalties to prevent and punish usury.

Sec. 12. No member of Congress, nor person holding or exercising any office of profit or trust, under the United States, or either of them, or under any foreign power, shall be eligible as a member of the Legislature, or hold or exercise any office of profit or trust under this State.

Sec. 13. It shall be the duty of the Legislature to pass such laws as may be necessary and proper to decide differences by arbitration, when the parties shall elect that method of trial.

Sec. 14. All civil officers shall reside within the State; and all district or county officers within their districts or counties, and shall keep their offices at such places as may be required by law; and failure to comply with this condition shall vacate the office so held.

Sec. 15. All property, both real and personal, of the wife, owned or claimed by her before marriage, and that acquired afterward by gift, devise or descent, shall be her separate property; and laws shall be passed more clearly defining the rights of the wife, in relation as well to her separate property as that held in common with her husband. Laws shall also be passed providing for the registration of the wife's separate property.

Sec. 16. No corporate body shall hereafter be created; renewed or extended with banking or discounting privileges.

Sec. 17. All officers within this State shall continue to perform the duties of their offices until their successors shall be duly qualified.

Sec. 18. The rights of property and of action, which have been acquired under the Constitution and laws of the Republic and State, shall not be divested; nor shall any rights or actions which have been divested, barred, or declared null and void by the Constitution of the Republic and State, be re-invested, renewed, or reinstated by this Constitution; but the same shall remain precisely in the situation which they were before the adoption of this Constitution, unless otherwise herein provided; and provided further, that no cause of action heretofore barred shall be revived.

Sec. 19. The Legislature shall prescribe by law the qualification of grand and petit jurors.

Sec. 20. The Legislature shall, at its first session, enact a law whereby the qualified voters of any county, justice's precinct, town or city, by a majority vote, from time to time, may determine whether the sale of intoxicating liquors shall be prohibited within the prescribed limits.

Sec. 21. All stationery, and printing, except proclamations and such printing as may be done at the Deaf and Dumb Asylum, paper, and fuel used in the legislative and other departments of the government, except the judicial department, shall be furnished, and the printing and binding of the laws, journals, and department reports, and all other printing and binding, and the repairing and furnishing the halls and rooms used for the meetings of the Legislature, and its committees, shall be performed under contract, to be given to the lowest responsible bidder, below such maximum price, and under such regulations as shall be prescribed by law. No member or officer of any department of the government shall be in any way interested in such contracts; and all such contracts shall be subject to the approval of the governor, secretary of state and comptroller.

Sec. 22. The Legislature shall have the power to pass such fence laws, applicable to any subdivision of the State, or counties, as may be needed to meet the wants of the people.

Sec. 23. The Legislature may pass laws for the regulation of live stock and the protection of stock raisers in the stock raising portion of the State, and exempt from the operation of such laws, other portions, sections, or counties; and shall have power to pass general and special laws for the inspection of cattle, stock and hides, and for the regulation of brands: provided, that any local law thus passed shall be submitted to the freeholders of the section to be affected thereby, and approved by them, before it shall go into effect.

Sec. 24. The Legislature shall make provision for laying out and working public roads, for the building of bridges, and for utilizing fines, forfeitures, and convict labor to all these purposes.

Sec. 25. That all drawbacks and rebatement of insurance, freight, transportation, carriage, wharfage, storage, compressing, baling, repairing, or for any other kind of labor or service, of or to any cotton, grain, or any other produce or article of commerce in this State, paid, or allowed, or contracted for, to any common carrier, shipper, merchant, commission merchant, factor, agent, or middle man of any kind, not the true and absolute owner thereof, are forever prohibited, and it shall be the duty of the Legislature to pass effective laws punishing all persons in this State who pay, receive or contract for, or respecting the same.

Sec. 26. Every person, corporation, or company, that may commit a homicide, through wilful act, or omission, or gross neglect, shall be responsible, in exemplary damages, to the surviving husband, widow, heirs of his or her body, or such of them as there may be, without regard to any criminal proceeding that may or may not be had in relation to the homicide.

Sec. 27. In all elections to fill vacancies of office in this State, it shall be to fill the unexpired term only.

Sec. 28. No current wages for personal service shall ever be subject to garnishment.

Sec. 29. The Legislature shall provide by law for defining and punishing barrety.

Sec. 30. The duration of all offices not fixed by this Constitution shall never exceed two years.

Sec. 31. The Legislature may pass laws prescribing the qualifications of practitioners of medicine in this State, and to punish persons for malpractice, but no preference shall ever be given by law to any schools of medicine.

Sec. 32. The Legislature may provide by law for the establishment of a board of health and vital statistics, under such rules and regulations as it may deem proper.

Sec. 33. The accounting officers of this State shall neither draw nor pay a warrant upon the treasury in favor of any person, for salary or compensation as agent, officer or appointee, who holds at the same time any other office or position of honor, trust, or profit, under this State or the United States, except as prescribed in this Constitution.

Sec. 34. The Legislature shall pass laws authorizing the governor to lease, or sell to the government of the United States, a sufficient quantity of the public domain of the State necessary for the erection of forts, barracks, arsenals, and military stations, or camps, and for other needful military purposes; and the action of the governor therein shall be subject to the approval of the Legislature.

Sec. 35. The Legislature shall, at its first session, pass laws to protect laborers on public buildings, streets, roads, railroads, canals, and other similar public works, against the failure of contractors and sub-contractors to pay their current wages when due, and to make the corporation, company or individual for whose benefit the work is done responsible for their ultimate payment.

Sec. 36. The Legislature shall, at its first session, provide for the payment, or funding, as they may deem best, of the amounts found to be justly due to the teachers in the public schools, by the State, for service rendered prior to the first day of July, 1873, and for the payment by the school dis-

tricts in the State of amounts justly due teachers of public schools by such district to January, 1876.

Sec. 37. Mechanics, artisans and material men, of every class, shall have a lien upon the buildings and articles made or repaired by them for the value of their labor done thereon, or material furnished therefor; and the Legislature shall provide by law for the speedy and efficient enforcement of said liens.

Sec. 38. The Legislature may, at such time as the public interest may require, provide for the office of commissioner of insurance, statistics and history, whose term of office, duties and salary shall be prescribed by law.

Sec. 39. The Legislature may, from time to time to time, make appropriations for preserving and perpetuating memorials of the history of Texas, by means of monuments, statues, paintings and documents of historical value.

Sec. 40. No person shall hold or exercise, at the same time, more than one civil office of emolument, except that of justice of the peace, county commissioner, notary public, and postmaster, unless otherwise specially provided herein.

Sec. 41. Any person who shall directly or indirectly, offer, give, or promise, any money or thing of value, testimonial, privilege or personal advantage, to any executive or judicial officer or member of the Legislature to influence him in the performance of any of his public or official duties, shall be guilty of bribery, and be punished in such manner as shall be provided by law. And any member of the Legislature, or executive or judicial officer who shall solicit, demand or receive, or consent to receive directly, or indirectly, for himself, or for another, from any company, corporation or person, any money, appointment, employment, testimonial, reward, thing of value or employment, or of personal advantage or promise thereof, for his vote or official influence, or for withholding the same, or with any understanding, expressed or implied, that his vote or official action shall be in any way influenced thereby, or who shall solicit, demand and receive any such money or other advantage, matter or thing aforesaid for another, as the consideration of his vote or official influence, in consideration of the payment or promise of such money, advantage, matter or thing to another, shall be held guilty of bribery, within the meaning of the Constitution, and shall incur the disabilities provided for said offenses, with a forfeiture of the office they may hold, and such other additional punishment as is or shall be provided by law.

Sec. 42. The Legislature may establish an inebriate asylum for the cure of drunkenness and reform of inebriates.

Sec. 43. No man or set of men shall ever be exempted,

relieved or discharged, from the performance of any public duty or service imposed by general law, by any special law. Exemptions from the performance of such public duty or service shall only be made by general law.

Sec. 44. The Legislature shall prescribe the duties and provide for the election by the qualified voters of each county in this State, of a county treasurer and a county surveyor, who shall have an office at the county seat and hold their office for two years, and until their successors are qualified; and shall have such compensation as may be provided by law.

Sec. 45. It shall be the duty of the Legislature to provide for collecting, arranging and safely keeping such records, rolls, correspondence, and other documents, civil and military, relating to the history of Texas, as may be now in the possession of parties willing to confide them to the care and preservation of the State.

Sec. 46. The Legislature shall provide by law for organizing and disciplining the militia of the State, in such manner as they shall deem expedient, not incompatible with the Constitution and laws of the United States.

Sec. 47. Any person who conscientiously scruples to bear arms, shall not be compelled to do so, but shall pay an equivalent for personal service.

Sec. 48. All laws and parts of laws now in force in the State of Texas, which are not repugnant to the Constitution of the United States, or to this Constitution, shall continue and remain in force as the laws of this State, until they expire by their own limitation or shall be amended or repealed by the Legislature.

Sec. 49. The Legislature shall have power, and it shall be its duty, to protect by law from forced sale a certain portion of the personal property of all heads of families, and also of unmarried adults, male and female.

Sec. 50. The homestead of a family shall be, and is hereby protected from forced sale, for the payment of all debts except for the purchase money thereof, or a part of such purchase money, the taxes due thereon, or for work and material used in constructing improvements thereon, and in this last case only when the work and material are contracted for in writing, with the consent of the wife given in the same manner as is required in making a sale and conveyance of the homestead; nor shall the owner, if a married man, sell the homestead without the consent of the wife, given in such manner as may be prescribed by law. No mortgage, trust deed, or other lien on the homestead shall ever be valid, except for the purchase money therefor, or improvements made thereon, as hereinbefore provided, whether such mortgage,

or trust deed, or other lien, shall have been created by the husband alone, or together with his wife; and all pretended sales of the homestead involving any condition of defeasance shall be void.

Sec. 51. The homestead, not in a town or city, shall consist of not more than two hundred acres of land, which may be in one or more parcels, with the improvements thereon; the homestead in a city, town, or village, shall consist of lot, or lots, not to exceed in value five thousand dollars, at the time of their designation as the homestead, without reference to the value of any improvements thereon; provided, that the same shall be used for the purpose of a home, or as a place to exercise the calling or business of the head of a family; provided, also, that any temporary renting of the homestead shall not change the character of the same, when no other homestead has been acquired.

Sec. 52. On the death of the husband or wife, or both, the homestead shall descend and vest in like manner as other real property of the deceased, and shall be governed by the same laws of descent and distribution, but it shall not be partitioned among the heirs of the deceased during the lifetime of the surviving husband or wife, or so long as the survivor may elect to use or occupy the same as a homestead, or so long as the guardian of the minor children of the deceased may be permitted, under the order of the proper court having the jurisdiction, to use and occupy the same.

Sec. 53. That no inconvenience may arise from the adoption of this Constitution, it is declared that all process and writs of all kinds which have been or may be issued and not returned or executed when this Constitution is adopted, shall remain valid, and shall not be in any way affected by the adoption of this Constitution.

Sec. 54. It shall be the duty of the Legislature to provide for the custody and maintenance of indigent lunatics, at the expense of the State, under such regulations and restrictions as the Legislature may prescribe.

Sec. 55. The Legislature may provide annual pensions, not to exceed one hundred and fifty dollars per annum, to surviving soldiers or volunteers, in the war between Texas and Mexico, from the commencement of the revolution in 1835, until the 1st of January, 1837; and also to the surviving signers of the declaration of independence of Texas; and to the surviving widows continuing unmarried of such soldiers and signers; provided, that no such pension be granted except to those in indigent circumstances, proof of which shall be made before the County Court of the county where the applicant resides, in such manner as may be provided by law

Sec. 56. The Legislature shall have no power to appropriate any of the public money for the establishment and maintenance of a bureau of immigration, or for any purpose of bringing immigrants to this State.

Sec. 57. Three millions acres of the public domain are hereby appropriated and set apart for the purpose of erecting a new State capitol and other necessary public buildings at the seat of government, said lands to be sold under the direction of the Legislature; and the Legislature shall pass suitable laws to carry this section into effect.

ARTICLE XVII.

Mode of Amending the Constitution of this State.

Section 1. The Legislature, at any biennial session, by a vote of two-thirds of all the members elected to each House, to be entered by yeas and nays on the journals, may propose amendments to the Constitution, to be voted upon by the qualified electors for members of the Legislature, which proposed amendments shall be duly published once a week for four weeks, commencing at least three months before an election, the time of which shall be specified by the Legislature, in one weekly newspaper of each county, in which such a newspaper may be published; and it shall be the duty of the several returning officers of said election, to open a poll for, and make returns to the secretary of state, of the number of legal votes cast at said election for and against said amendments; and if more than one be proposed, then the number of votes cast for and against each of them; and if it shall appear from said return, that a majority of the votes cast have been cast in favor of any amendment, the said amendment so receiving a majority of the votes cast, shall become a part of this Constitution, and proclamation shall be made by the governor thereof.

Done by the delegates of the people of Texas, in Convention assembled, in the city of Austin, on this, the twenty-fourth day of November, in the year of our Lord one thousand eight hundred and seventy-five.

In testimony whereof we hereunto subscribe our name our names:

EDWARD B. PICKETT,
President of the Convention.

LEIGH CHALMERS,
Secretary of the Convention.

GENERAL LAWS
OF
THE STATE OF TEXAS

PASSED AT THE
SESSION OF THE FIFTEENTH LEGISLATURE

BEGUN AND HELD
AT THE CITY OF AUSTIN

APRIL 18TH, 1876

BY AUTHORITY.

GALVESTON
1876

GENERAL LAWS OF TEXAS.

CHAPTER I.—An Act making an appropriation to defray the contingent expenses of the first session of the Fifteenth Legislature.

Whereas, It is of sufficient public importance that the contingent expenses of this Legislature be promptly paid, in order that the material furnished and labor performed may be procured at cash prices; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of twenty-five thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the Treasury, not otherwise appropriated, to pay the contingent expenses of the Fifteenth Legislature; and that the approval of the Chairman of the Committee on Contingent Expenses, of either House, countersigned by the President of the Senate or Speaker of the House, shall be sufficient authority to authorize the Comptroller to issue his warrant on the State Treasurer for the payment of any account against said fund.

Sec. 2. That the balance of moneys remaining in the Treasury, heretofore appropriated for the contingent expenses of any preceding session of the Legislature of the State of Texas, be and the same is hereby re-appropriated for the purposes specified in this act. That this act take effect from and after its passage.

Approved May 1st, 1876.

Takes effect from and after its passage.

CHAPTER II.—An Act fixing the per diem pay and mileage of the members of the Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That hereafter, until otherwise provided by law, the pay of members of the Legislature is hereby fixed at five dollars per diem for the first sixty days of each session, and after that time, the sum of two dollars per diem for the remainder of the session; except the first session under this act, during which session the pay of members is hereby fixed at five dollars per diem for the first ninety days, and after that time, at two dollars per day for the remainder of the session.

Sec. 2. That hereafter, until otherwise provided by law, the mileage of members of the Legislature is hereby fixed at five dollars for every twenty-five miles in going to and returning from the seat of government, to be computed by the nearest and most direct route of travel by land, regardless of railways or water routes; and the Comptroller of the State shall prepare and preserve a table of distances to each county seat now or hereafter to be established, and by such table the mileage of each member shall be paid: provided, that no member shall be entitled to mileage for any extra session that may be called within one day after the adjournment of a regular or a called session.

Sec. 3. That this being the first session of the Legislature held under this act, and it being necessary that members of the Legislature should receive their per diem pay and mileage immediately for their services, therefore, this act take effect and be in force from and after its passage.

Approved May 1st, 1876.

Takes effect from and after its passage.

CHAPTER III.—An Act making an appropriation for mileage and per diem pay of members, and per diem pay of officers and employees of the Fifteenth Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of eighty thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any moneys in the Treasury not otherwise appropriated, for the payment of mileage and per diem pay of the members, and the payment of the per diem of the officers and employees of the Fifteenth Legislature of the State of Texas.

Sec. 2. That the certificate of the Secretary of the Senate, approved by the President thereof, or the certificate of the Chief Clerk of the House, approved by the Speaker thereof, shall be sufficient evidence to the Comptroller, upon which he shall audit the claims and issue his warrants upon the Treasurer for the respective amounts.

Sec. 3. That the balance of moneys remaining in the Treasury heretofore appropriated for the per diem pay and mileage of the members and the per diem pay of the officers and employees of any preceding session of the Legislature of the State of Texas be and the same is hereby re-appropriated for the purposes specified in this act.

Sec. 4. And, whereas, the Fifteenth Legislature, for the payment of the members and officers, of which this law is enacted, is now in session, and public policy requires their payment; therefore, that this law be in force from and after its passage.

Approved May 1st, 1876.

Takes effect from and after its passage.

CHAPTER IV.—An Act to fix the first terms of the District Courts under the present Constitution.

Section 1. Be it enacted by the Legislature of the State of Texas, That when a term of a District Court by the ordinance entitled, "An Ordi-

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nance fixing the terms of the District Courts of the State of Texas," which is part of the Constitution, is therein specified to commence at a day prior to the eighteenth of April, and can continue to a day later than the eighteenth of April, all District Courts that have been held, and are now being held for the part of such term, on, and subsequent to, the eighteenth of April, 1876, have been, and shall be, valid terms of court, and the same are fully legalized and validated.

Sec. 2. As an emergency exists, a number of the courts of the State are now being held and can continue to be held for parts of their term on, and subsequent to, the eighteenth of April, and their validity shall be immediately made free from all doubt. This act shall take effect and be in force from and after its passage.

Approved May 3, 1876.

Takes effect from and after its passage.

CHAPTER V.—An Act organizing a Court of Appeals.

Whereas, An imperative public necessity and emergency exist for immediate legislation to organize the Court of Appeals that it may at once hear and determine criminal and other causes exclusively cognizable on appeal in said court; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the Court of Appeals shall hold its sessions at the city of Austin during the same time the Supreme Court shall be in session at said place, and at such other times and places as the Supreme Court is now or may be hereafter required to hold its sessions. The clerk of the Court of Appeals shall, before entering on the duties of his office, take the oath of office prescribed by the Constitution. He shall give the same bond, to be approved by the Court of Appeals or the Judges thereof, required to be given by the Clerk of the Supreme Court; be subject to the same liabilities; entitled to the same fees of office, and shall perform, as Clerk of the Appellate Court, the duties now imposed by law on the Clerk of the Supreme Court.

Sec. 2. It shall be the duty of the Clerk of the Court of Appeals at Austin to procure a seal for said court, and a copy thereof shall be made for each place where its sessions may now or may hereafter be required by law to be held; it shall have a star with five points, with the words "Court of Appeals of Texas," engraved thereon.

Sec. 3. The Clerk of the Court of Appeals shall receive from the Clerk of the Supreme Court, and receipt for, all records which have been, or which may be hereafter, received in his office, of cases of which the Court of Appeals has, under the Constitution, exclusive appellate jurisdiction, and file the same in his office; which causes shall be considered and disposed of by the Court of Appeals as though they had been appealed to said court.

Sec. 4. The laws regulating practice and proceedings in the Supreme Court, and regulating appeals and writs of error thereto, shall apply to the Court of Appeals, but when the District Court from which an appeal has been or may be taken, is by the Constitution deprived of jurisdiction over the subject matter in controversy, in such case the mandate issuing from the Court of Appeals, on the disposition of a cause transferred to it under the third section of this act, shall be directed to

highest court of the county from which the appeal was taken, having original jurisdiction over the subject matter in controversy; and in such case the Clerk of the court to which the mandate is directed, shall demand and receive from the Clerk of the court from which the appeal was taken, the original papers in said cause, and the court to which the mandate is directed shall then exercise jurisdiction over the case.

Sec. 5. The attorney General shall represent the State in all cases to which the State is a party before the Court of Appeals.

Sec. 6. The Sheriff of Travis county shall furnish one of his deputies to attend before the Court of Appeals during its sessions at Austin, and to execute its orders; he shall receive such compensation as may be allowed by said court, not to exceed three (3) dollars per day, to be paid by the State Treasurer.

Sec. 7. Appeals and writs of error may be taken to the Court of Appeals, in cases over which said court may have appellate jurisdiction, in the same manner that appeals are allowed to the Supreme Court.

Sec. 8. The Judges of the Court of Appeals shall choose a presiding Judge for said court, from their number, at such times as they think proper, and all writs and process issuing from said court shall bear test in the name of said presiding Judge and the seal of the court.

Sec. 9. The Court of Appeals shall hold its sessions at Austin in the room now occupied as an office by the Attorney General, in the Supreme Court building, which shall be fitted up and supplied with proper furniture, books of record and stationery, to be contracted for by the Clerk of said court, subject to the approval of the court.

Sec. 10. That there being no law in force to enable said court, or the judges thereof, to proceed with their labors and duties, as prescribed in the Constitution, an emergency exists that this bill shall, and it is hereby declared that it shall take effect from and after its passage.

Approved May 6, 1876.

Takes effect from and after its passage.

CHAPTER VI.—An Act to transfer all cases, civil and criminal, now pending in courts of Justices of the Peace whose jurisdiction has been heretofore increased by special law, to the courts having jurisdiction thereof under the Constitution.

Section 1. Be it enacted by the Legislature of the State of Texas, That all cases, civil and criminal, now pending in courts of Justices of the Peace, whose jurisdiction has been heretofore increased by special law, be and are hereby transferred to the courts having jurisdiction of the same under the Constitution.

Sec. 2. Whereas, the new Constitution having changed the original jurisdiction of the several courts of this State, and abolished other courts, and as business yet remains undisposed of in some of the courts not now having jurisdiction to try the same, and it being necessary to the ends of justice that such business should immediately be transferred to the proper tribunal for trial and disposal, it is therefore declared that this act shall take effect and be in force from and after its passage.

Approved May 9, 1876.

Takes effect from and after its passage.

CHAPTER VII.—An Act to provide for current printing of the Fifteenth Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That the State Treasurer be and is hereby authorized and required to contract with a suitable person or persons, firm or firms, for the printing of all the bills, memorials, messages, and all other current printing of both Houses of the Fifteenth Legislature.

Sec. 2. That the State Treasurer is authorized and required to advertise in the Daily Democratic Statesman and Daily State Gazette, newspapers published in the city of Austin, for two days, for sealed proposals for doing said current printing, and shall in said advertisement state the time and place when and where said proposals shall be received and opened, and the contract awarded, and shall fix the time for awarding said contract at not exceeding three days from the date of the first insertion of said advertisement. And all said current printing shall be awarded to the lowest responsible bidder, who shall agree and contract to do said printing at the city of Austin, below the maximum rates herein prescribed.

Sec. 3. All proposals for executing said printing shall be sealed and addressed to the Treasurer, and shall be endorsed with the statement that they are proposals for the current printing for the Fifteenth Legislature, and shall be filed in the office of the Secretary of the State, and the seals of such proposals shall not be broken until the day named in the advertisement for awarding the contract, and said proposals shall be opened in the presence of the Governor, Secretary of the State and Comptroller of Public Accounts, and a committee of three members of each House, and such bidders as may desire to be present.

Sec. 4. That the rates allowed by said contract for said current printing shall be below the following maximum rates, to-wit: for printing the Governor's messages, reports, or other documents provided by law, or ordered by the Legislature, or either branch thereof, one-fourth of one cent per page for five hundred copies of each, and for any number of additional copies of the same, one-fifth of one cent per page, and printed on small pica type, forty-four lines long, exclusive of the folio, and twenty-seven ems wide, without side notes. The paper shall be white, of uniform color, and of a quality weighing not less than forty pounds to the ream, and shall be neatly stitched and trimmed. For printing two hundred copies of bills, memorials or resolutions, or any number of copies less than two hundred, ordered by either house of the Legislature, printed on pica type, lines numbered on the margin, with space between the lines of the size of pica, on sixteen pound flat cap paper, to be twenty ems wide and sixty-five ems in length, with four pages to the sheet, the sum of two dollars and sixty-five cents per page.

Sec. 5. That said contract shall be approved by the Governor, Secretary of the State, and Comptroller of Public Accounts, and no member or officer of any department of the government shall be in any way interested in said contract.

Sec. 6. That the parties to whom said contract may be awarded shall immediately enter into a bond, with two good and sufficient sureties, in the sum of five thousand dollars, payable to the State of Texas; conditioned that he will faithfully comply with and carry out the condi-

tions of said contract, which bond shall be approved by the Governor, Secretary of the State and Comptroller, and filed in the office of the Secretary of State.

Sec. 7. The Printing Committee of each House of the Legislature shall certify to the Comptroller of Public Accounts the quantity of each item of printing ordered by such House, and also the number of copies of the same so ordered, and also the number of copies of the same they may have received, and the Comptroller shall thereupon authorize the payment of the accounts for said printing in accordance with the provisions of the contract: provided, that said contract shall terminate when other provisions for the public printing shall have been made by the Legislature of Texas.

Sec. 8. That as the contract for State printing under which the current printing of the Fifteenth Legislature has been done will expire on the first day of May, 1876, leaving no law in force authorizing the making of a contract for the current printing of this Legislature, an imperative public necessity and emergency exist, and that this act shall take effect and be in force from and after its passage.

Approved May 11, 1876.

Takes effect from and after its passage.

CHAPTER VIII.—An act supplemental to "An act to provide for current printing of the Fifteenth Legislature of the State of Texas," passed April 28, 1876.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor of the State is hereby authorized and required to employ a practical printer, whose duty it shall be to measure all the work done for the State, whenever required to do so by the Governor or Chairman of the Printing Committee of either House of the Legislature: provided, he shall not receive more than seventy dollars per month for his services.

Sec. 2. That the Chairman of the Printing Committee of each House of the Legislature shall preserve a sample of each and every piece of work done under the act to which this is a supplement, and shall present the same to the expert printer provided for in section one, hereof in order that he may measure the same. All accounts due the Public Printer for work done under the act to which this is a supplement, shall, after being pronounced correct, and approved by said expert printer, be approved by the Committee on Public Printing, of the House ordering the work, and shall be examined and approved by the Governor, Secretary of State and Comptroller, and upon the presentation of any claim thus examined and approved, it shall be the duty of the Comptroller to draw his warrant in favor of the public printer for the amount of said account, to be paid out of the contingent fund set apart for the use of the House ordering the work: provided, that the maximum rate to be paid for printing bills ordered to be printed by either House of the Legislature, as provided for in the act to which this is a supplement, shall not exceed two dollars and sixty-five cents per page for the number of pages in each copy thereof.

Sec. 3. That there being no law in force under which the Legislature can get its current printing done, a public necessity exists for the

immediate passage of this act, and it is hereby declared that the same shall take effect from and after its passage.

Approved May 11, 1876.

Takes effect from and after its passage.

CHAPTER IX.—An Act to provide for and regulate the safe keeping of trust funds by officers of courts.

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever, for any legal cause, any money, evidence of debt, scrip, instrument of writing, or other article, shall be paid, or deposited into court, there to remain to abide the result of any legal proceedings, the officer having the custody of the same shall seal up the identical money or other article received by him in a secure package, and deposit it in some safe or bank vault, keeping it always accessible, and subject to the control of the proper court; and he shall also keep in a well bound book a correct statement showing each and every item of money so received, on what account received, and what disposition has been made of the same.

Sec. 2. On the expiration of his term of office, such officer shall turn over to his successor such record of trust funds and the packages of money remaining on hand, and take his receipt therefor.

Sec. 3. If any officer of any court, having such funds on hand, shall appropriate the same to his own use, he shall be deemed guilty of embezzlement, and, on conviction, punished as is provided for that offense by law.

Sec. 4. If any officer shall fail, or refuse to comply with the provisions of this act, he shall be deemed guilty of a misdemeanor, and, on conviction, be punished by fine of not less than ten nor more than two hundred dollars, or by imprisonment in the county jail for not more than three months, and may, in addition thereto, be punished by the proper court for contempt.

Sec. 5. This act shall not be construed to exempt any officer from liability on his official bond for any default, or neglect, in regard to the funds herein mentioned.

Approved May 19th, 1876.

Takes effect ninety days after adjournment.

CHAPTER X.—An Act to provide for the manner in which publication of notice of intention to apply for the passage of a local or special law, and proof of such publication, shall be made.

Section 1. Be it enacted by the Legislature of the State of Texas, That any person or persons intending to apply for the passage of any local or special law, shall give notice of such intention by having a statement of the substance of such law published in some newspaper published in the county embracing the locality to be affected by said law, at least once a week for the period of thirty days prior to the introduction into the Legislature of such contemplated law: provided, where there is no newspaper published in said county, a written copy of such statement

shall be posted on the court-house door and in five other public places in the immediate locality to be affected thereby, in said county, for said thirty days, and such notice shall accurately define the locality to be affected by said law: provided, further, that where the locality to be affected by said law shall extend beyond the limits of any one county, such notice shall be given for each county to be affected.

Sec. 2. Whenever any person or persons intend applying for the passage of a special law, which shall affect persons chiefly, and not directly affect any particular locality more than others, such person or persons if residing within this State, shall make publication of notice of such intention in the county or counties of the residence of such person or persons, in the same manner as if the said law was to affect those localities, and if residing without the limits of this State, said publication need only be made in a newspaper published at the Capital, in like manner as if such person or persons resided at the seat of government.

Sec. 3. It shall not be necessary to embrace, in said notice, the particular form and terms of such contemplated law, but a statement only of the general purpose and nature of the same shall be sufficient.

Sec. 4. The publication in a newspaper at the county of the locality, or at the residence, or at the State Capital, as the case may be provided for in this act, may be shown by the affidavit of the publisher, or of one of several publishers of such newspaper, accompanied with the printed copy of the notice as published; and the posting on the courthouse door and five other public places of the county provided for in this act, may be shown by the return of the Sheriff or other officer of the county authorized to execute process from courts of general jurisdiction, or by the affidavit of any credible person made on a written copy of the notice so posted, showing the fact of such posting, and such proof, or other competent proof of the giving of said notice, shall accompany the introduction of every local or special law.

Sec. 5. In all cases where notice of an intention to apply to the Legislature for the passage of a local or special law has already been given, or is now in process of being given, in the manner provided for in this act, the same shall be as effectual as if given after the taking effect of this act.

Sec. 6. To enable the present Legislature to act upon matters proper to be embraced in local or special laws, it is necessary, and is so enacted, that this act take effect and be in force from and after its passage.

Approved May 23, 1876.

Takes effect from and after its passage.

CHAPTER XI.—An Act to amend Article 389 of an act entitled “An Act to establish a code of criminal procedure for the State of Texas.”

Section 1. Be it enacted by the Legislature of the State of Texas, That Article 389 of an act entitled “An act to establish a code of criminal procedure for the State of Texas,” be amended so that the same shall hereafter read as follows, viz:

Article 389. The fact of the presentment of the indictment in open court by a grand jury shall be entered upon the minutes of the proceedings of the court, noting briefly the style of the criminal action and

the file number of the indictment, but omitting the name of the defendant, unless in custody or under bond.

Approved May 25th, 1876.

Takes effect ninety days after adjournment.

CHAPTER XII.—An Act to repeal Article 76 of an act entitled "An Act to adopt and establish a Penal Code for the State of Texas."

Section 1. Be it enacted by the Legislature of the State of Texas, That Article 76 of an act entitled "An act to establish a Penal Code for the State of Texas," be and the same is hereby repealed.

Approved May 25th, 1876.

Takes effect ninety days after adjournment.

CHAPTER XIII.—An Act to amend Article 771 of "An Act to adopt and establish a Penal Code for the State of Texas," approved August 28, 1856.

Section 1. Be it enacted by the Legislature of the State of Texas, That Article 771 of "An Act to adopt and establish a Penal Code for the State of Texas," approved August 28, 1856, be so amended as to read as follows, to-wit:

Article 771. If any officer, agent, clerk or attorney at law of any incorporated company, or institution, or of any city, town or county; or if any clerk, or agent, or attorney at law of any private person or copartnership; or if any consignee or bailee of money or property, or town, city or county scrip, or of any draft, promissory note, bank bill, national bank note, treasury note of the United States of America, or of any article of value, shall embezzle or fraudulently misapply, or convert to his own use, without the consent of his principal, employer or client, any money, property, town, city or county scrip, or any draft, promissory note, bank bill, national bank note, Treasury note of the United States of America, or any article of value belonging to such principal, employer or client, or the proceeds of such property, after the sale thereof, which shall have come into his possession, or shall be under his care, by virtue of such office, agency or employment; and if the value of the property or money or other article so embezzled shall be twenty dollars or over, he shall be punished by imprisonment in the Penitentiary not less than two nor more than ten years. If the value of such property, money, or other article, shall be less than twenty dollars, he shall be punished as for theft of property under the value of twenty dollars. Within the meaning of money as used in this article, is included any circulating medium current as money.

Approved May 25th 1876.

Takes effect ninety days after adjournment.

CHAPTER XIV.—An Act to repeal the Act regulating the removal of the disabilities of minors.

Section 1. Be it enacted by the Legislature of the State of Texas, Th

the act regulating the removal of the disabilities of minors, approved October 24, 1871, be, and the same is hereby repealed.

Approved May 25, 1876.

Takes effect ninety days after adjournment.

CHAPTER XV.—An Act to define and regulate the duties of County Clerks throughout the State.

Section 1. Be it enacted by the Legislature of the State of Texas, That the County Clerks of the several counties in this State shall have the custody of all the minutes, records, books, and papers, including probate records and all records of deeds and mortgages, and other instruments of writing required or permitted by law to be recorded, and of the records of the County Commissioners' Courts of their respective counties; and it shall be their duty to attend to the arrangement and preservation of the same.

Sec. 2. Every person elected County Clerk shall, before entering upon the duties of his office, enter into bond, with two or more good and solvent sureties, to be approved by the County Commissioners' Court in such sum as said court may determine, not less than two thousand dollars, nor more than ten thousand dollars, payable to the Governor of the State and his successors in office, conditioned for the faithful performance of all the duties of his office, as are prescribed by the Constitution and laws of this State; and he shall also take and subscribe the oath of office prescribed by the Constitution, before some officer authorized to administer oaths of office, which oath shall be endorsed on or attached to said bond, together with the officer's certificate before whom the oath is taken that such oath was taken, which bond and oath shall be recorded in the County Clerk's office, and shall be deposited in the office of the District Clerk of the county. Such bond may be sued upon by any person injured by the breach thereof until the full amount is recovered: provided, that in all cases the officers herein enumerated, who have been elected under the present Constitution of the State of Texas, and who have already given bonds, as required by law, before the passage of this act, shall not be required to give any new or additional bond.

Sec. 3. The County Clerks shall have power to appoint in writing, under their hand and seal, a competent deputy or deputies, for whose official acts they shall be responsible, and such deputy shall take and subscribe the oath of office prescribed by the Constitution for all officers, before some officer authorized to administer oaths, which shall be endorsed on or attached to said appointment, together with the certificate of the officer administering the oath that such oath has been taken. The appointment and oath shall be recorded in the County Clerk's office, with the records thereof, and deposited in the office of the District Clerk.

Sec. 4. That the County Clerks are hereby required to keep their offices at the county seats of their respective counties, and give their personal labor, attendance and supervision to the duties of said office, and in all cases where the said Clerks do not reside at the county seats of their respective counties, they are hereby required to have one or more of their deputies residing at said county seat, and all deputies

appointed in accordance with this act shall have power to do and perform all other acts that may be lawfully performed by the County Clerks.

Sec. 5. That the County Clerks of the several counties of this State, or their deputy or deputies, shall have power, and it shall be their duty, when applied to for that purpose, to take the separate acknowledgment of married women, in all cases where such acknowledgment is required by law to be taken, to the execution of any deed or other instrument in writing, or conveyance executed by them, and to take the acknowledgment of all other persons to deeds or other written instruments or conveyances, and to take proof by witnesses of all such deeds, written instruments or conveyances, which are required or permitted by law to be so acknowledged or proven for record; and it shall also be their duty to record, in accordance with the registration laws now or hereafter in force, all such deeds, mortgages, deeds of trust or any other instruments in writing, or judgments, which may be permitted or required by law to be recorded.

Sec. 6. The County Clerks shall be authorized to issue all marriage licenses, take depositions of witnesses in all cases where the same are permitted by law, and to administer oaths, and take affidavits in all judicial proceedings to be used in any of the courts of the State.

Sec. 7. Any and all acts heretofore done by County Clerks on and since the 18th day of April, 1876, which are authorized under this act, or any pre-existing law, are hereby legalized, and shall be as valid as though this law was in effect on the said day and date.

Sec. 8. That all laws in conflict with this act be and the same are hereby repealed.

Sec. 9. That in view of the fact that no laws are now in force regulating the duties of County Clerks, an emergency exists which requires that this act take effect and be in force from and after its passage, and it is therefore enacted that this act take effect and be in force from and after its passage.

Approved May 25, 1876.

Takes effect from and after its passage.

CHAPTER XVI.—An Act prescribing the times of holding the District Courts in the Twenty-Second Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas, That the District Courts of the Twenty-Second Judicial District shall be held at the times hereinafter specified in each year, to-wit: In the county of Atascosa, on the first Mondays in January and September, and may continue in session two weeks. In the county of Comal, on the third Mondays in January and September, and may continue in session two weeks. In the county of Bexar, on the first Monday in February, and may continue in session until the business is disposed of; on the first Monday in April, and may continue in session until the business is disposed of; on the first Monday in June, and may continue in session four weeks; on the first Monday in October, and may continue in session until the business is disposed of; on the first Monday in December, and may continue in session four weeks.

Sec. 2. All writs and process returnable to the said district courts as

heretofore fixed, shall be returnable to the first terms of said courts held under the provisions of this act, and shall be as valid as if no change in the time of holding said courts had been made.

Sec. 3. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 4. And, whereas, by the changes herein made of the times of holding the district courts of said district, a conflict would arise between the present law and this act, if this act did not go into effect until ninety days after the adjournment of this legislature; and, whereas, this creates such an emergency as is contemplated by the Constitution, therefore, it is further enacted, that this act shall take effect and be in force from and after its passage.

Approved May 30, 1876.

Takes effect from and after its passage.

CHAPTER XVII.—An Act to provide for the transfer of the cases in the late Criminal Courts of the State to the District Courts, and to legalize the proceedings of the District Courts in certain cases.

Whereas, Doubts have arisen as to the power of the District Courts of those counties wherein Criminal Courts have hitherto been established under section one, article five of the Constitution of 1869, and wherein Criminal Courts no longer exist, to exercise jurisdiction over causes pending in said Criminal Courts at the time said courts were abolished, without legislation; and

Whereas, an emergency exists for the removal of such doubts by the passage of a law to go into immediate force and effect, therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the District Courts of the several counties in this State, wherein Criminal Courts have been heretofore established under section one, article five of the Constitution of 1869, and wherein such Criminal Courts have been abolished by the adoption of the present Constitution, shall take control of, hear and determine all causes in said Criminal Courts in their respective counties over which said District Courts have jurisdiction; and all parties now under bond or recognizance to appear before said Criminal Courts to answer charges of felony shall appear and answer before the respective District Courts having jurisdiction of their respective causes.

Sec. 2. That all process heretofore issued from such Criminal Courts shall be returnable to the District Courts of the respective counties in which said Criminal Courts were established.

Sec. 3. That all proceedings heretofore had in said District Courts on and after the eighteenth day of April, 1876, in causes pending in said Criminal Courts at the time the present Constitution went into effect, are hereby legalized and made valid.

Sec. 4. That this act take effect from and after its passage.

Approved May 30, 1876.

Takes effect from and after its passage.

CHAPTER XVIII.—An Act to authorize the Secretary of State to employ extra clerks in his office, and to make an appropriation to pay the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Secretary of State be, and he is hereby authorized to employ such extra clerks in his office as may be necessary to enable him to do the business of his office promptly and without delay: provided, that said clerks shall be employed at such times as he may deem proper after the passage of this act and before the first day of September, A. D., 1876: and provided further, that the aggregate amount of the pay of said extra clerks employed under this act shall not exceed five hundred dollars.

Sec. 2. That the sum of five hundred dollars, or so much thereof as may be needed, be, and the same is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay said extra clerks and the certificate of the Secretary of State that such clerk or clerks have been employed by him, stating the time they have been so employed, and the amount due them, shall be sufficient authority for the Comptroller to draw his warrant on the Treasurer for the payment of the same.

Sec. 3. Whereas the business of the office of the Secretary of State cannot be done with the present clerical force in the office, without great delay, there being several thousand officers to be commissioned, besides the other current business of the office, therefore it is declared that an emergency exists that this act should take effect immediately; therefore it is enacted that this act take effect and be in force from and after its passage.

Approved May 30, 1876.

Takes effect from and after its passage.

CHAPTER XIX.—An Act to authorize the Commissioner of the General Land Office to appoint one draftsman, two corresponding clerks, and special clerks in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be and is hereby authorized and empowered to appoint a draftsman under an act to provide for the re-compilation of an abstract of the located, titled and patented lands in Texas, and two corresponding clerks, and that the payment of the salaries of the above draftsman and corresponding clerks shall be provided for in the deficiency appropriation for the General Land Office.

Sec. 2. That when the force in the General Land Office shall not be sufficient, owing to the pressure of other duties, to furnish, within a reasonable time, the copies of field notes and surveys provided for under an act to require the Commissioner of the General Land Office to furnish copies of surveys and field notes to the counties of the State, approved April the twenty-ninth, one thousand eight hundred and seventy-four, then the Commissioner of the General Land Office is hereby authorized and empowered to employ special clerks to make said copies, who shall be allowed at the rate of eight cents for every one hundred words so copied; to be paid by the county applying for the

same, upon the certificate of the Commissioner of the performance of the service.

Sec. 3. That, whereas, the exigencies of the service require the appointment of the draftsman and clerks provided for in section one of this act; and, whereas, the appropriation for their services was through a clerical error, which the records show, omitted in the General appropriations for eighteen hundred and seventy-five and eighteen hundred and seventy-six; this act shall take effect and be in force from and after its passage.

Approved June 1st, 1876.

Takes effect from and after its passage.

CHAPTER XX.—An Act to make an appropriation to pay the salaries of the Judges, and other expenses connected with the Court of Appeals, for the fiscal year ending August 31, 1876.

Section 1. Be it enacted by the Legislature of the State of Texas, That the following sums of money, or so much thereof as may be necessary, be and the same are hereby appropriated out of any moneys in the Treasury not otherwise appropriated to pay the salaries of the Judges of the Court of Appeals, and for other expenses connected with said court, for the fiscal year ending August 31, 1876, viz: For three Judges, \$3,993.75; for books and stationery, \$400; for postage and other contingent expenses, \$606.25.

Sec. 2. That the certificate of the Clerk of the Court of Appeals, approved by the presiding Judge thereof, shall be sufficient evidence to authorize the Comptroller to draw his warrant upon the Treasurer of the State against the appropriation herein made.

Sec. 3. That this appropriation being necessary to discharge the pressing demands and every day expenses of the court and its officers, and an emergency, and an imperative public necessity, exist for the immediate passage of this act, it shall therefore take effect and be in force from and after its passage.

Approved June 2, 1876.

Takes effect from and after its passage.

CHAPTER XXI.—An Act to define the duties of Judges of the County Courts in certain cases therein mentioned.

Section 1. Be it enacted by the Legislature of the State of Texas, That the County Judges of the several counties of this State are authorized and they are hereby required to perform all the duties heretofore required to be performed by the Chief Justices of this State, by an act entitled "An act supplementary to an act supplementary and amendatory of an act to regulate railroad companies," approved February 7, 1853; approved December 19, 1857; approved February 8, 1860.

Sec. 2. That all laws and parts of laws now in force and contravening the provisions of this act, be and the same are hereby repealed; that an imperative public necessity for the immediate passage of this act, and an emergency requiring that the same take effect and be in

force from and after its passage, both exist, there being grave doubts as to whether there now exists any statute now in force in this State, whereby lands, belonging to individuals, may be condemned for railroad purposes, and many railroads in said State being liable to forfeit their charters, unless immediate relief, as herein contemplated, be granted; therefore that this act take effect and be in force from and after its passage.

Approved June 2, 1876.

Takes effect from and after its passage.

CHAPTER XXII.—An Act to provide for a Special Term of the District Court in the Counties of Burnet and Menard.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Judge of the Seventeenth Judicial District is hereby authorized and directed to hold a special term of the District Court in the county of Burnet, at the county seat thereof, beginning on the third Monday in June, 1876, and may continue in session one week. In the county of Menard on the fourth Monday in June, 1876, and may continue in session two weeks.

Sec. 2. That the condition of affairs in the county of Menard, and the exigencies of the public service, require immediate relief, and it is therefore enacted, that this act take effect and be in force from and after its passage.

Approved June 5, 1876.

Takes effect from and after its passage.

CHAPTER XXIII.—An Act to provide for Special Terms of the District Court of the Twentieth Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Judge of the Twentieth Judicial District is hereby authorized and directed to hold special terms of the District Court in that Judicial District, at the times and places hereinafter stated.

Sec. 2. A special term shall be held in El Paso county at the courthouse thereof, to begin on the last Monday in June, and to continue in session two weeks.

Sec. 3. A special term shall be held in Presidio county at the courthouse thereof, to begin on the third Monday in July, and to continue in session two weeks.

Sec. 4. As it is necessary for the dispatch of the business in the said courts, it is hereby enacted that this act take effect and be in force from and after its passage.

Approved June 5, 1876.

Takes effect from and after its passage.

CHAPTER XXIV.—An Act to make an appropriation to supply a deficiency in the appropriation for postage, to be used in the office of Secretary of State, for the fiscal year ending August 31, 1876.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of one thousand dollars, or so much thereof as may be necessary, be, and the same is hereby appropriated out of any money in the Treasury not otherwise appropriated, to pay for postage to be used in the office of Secretary of State during the remainder of the fiscal year ending August 31, 1876.

Sec. 2. Whereas, the appropriation for postage to be used in the office of the Secretary of State, for the fiscal year ending August 31, 1876, has been exhausted, and there being no appropriation for said purpose, and it being necessary that an appropriation be made for said purpose, to prevent delay in the business of said office, therefore, it is declared, that an emergency exists requiring this bill to take effect from and after its passage, and it is so enacted.

Approved June 8, 1876.

Takes effect from and after its passage.

CHAPTER XXV.—An Act to amend Section Second of an Act concerning Divorce and Alimony, passed January 6th, 1841.

Section 1. Be it enacted by the Legislature of the State of Texas, That section two of the foregoing recited Act shall hereafter read as follows, to-wit: the courts aforesaid are hereby invested with full power and authority to decree divorces from the bonds of matrimony in the following cases: That is to say in favor, of the husband, where his wife shall have been taken in adultery, or where she shall have voluntarily left his bed and board, for the space of three years, with the intention of abandonment. In favor of the wife, where the husband shall have left her for three years, with the intention of abandonment, or where he shall have abandoned her and lived in adultery with another woman. In favor of either the husband or wife, when the other shall have been convicted, after marriage, of a felony and imprisoned in the State prison; provided, that no suit for divorce shall be sustained because of the conviction of either party for felony until twelve months after final judgment of conviction, nor then if the Governor shall have pardoned the convict: provided, that the husband has not been convicted on the testimony of the wife, nor the wife on the testimony of the husband.

NOTE.—The foregoing bill was presented to the Governor of Texas for his approval on the twenty-seventh day of May, A. D., 1876, and was not signed by him, or returned to the House in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature.

(Signed)

A. W. DeBERRY, Secretary of State.

Takes effect ninety days after adjournment.

CHAPTER XXVI.—An Act making appropriation of the Fourteenth Legislature for frontier defense available for payment of deficiency of previous year for same purpose.

Section 1. Be it enacted by the Legislature of the State of Texas, That the appropriation made at the last session of the Fourteenth Legislature, for frontier defenses, is hereby made available for payment of deficiency in the appropriation of the previous year for the same purpose; and, whereas, a public necessity for the immediate passage of this bill exists, the same shall be in force from and after its passage.

Approved June 15, 1876.

Takes effect from and after its passage.

CHAPTER XXVII.—An Act to organize the County Courts and define their powers and jurisdiction.

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be established in each county in this State a Court of Record, styled the County Court; and there shall be elected by the qualified electors thereof, at the next general election for State and County officers, and every two years thereafter, one County Judge, who shall hold his office for the term of two years, and until his successor shall have been elected and qualified, and all vacancies in said office, shall be filled by the County Commissioners' Court of the county until the next general election.

Sec. 2. The County Judge shall keep his office at the county seat, and shall attend at said office from day to day, and shall not absent himself from the county for a longer period than twenty days without vacating his office, and not then without permission of the Commissioners' Court, which said court shall have power to grant County Judge leave of absence from the county not to exceed twenty days, which shall be entered on the minutes of the court; and there shall be begun and holden at the court-house of the respective counties throughout the State a term of the County Court for civil and probate business on the third Monday in January, March, May, July, September and November, and a term for criminal business on the first Monday in every month: provided, that the County Court of any county may change the times of holding court as herein provided by order duly entered on the minutes of said court, at some regular term thereof, and said order shall be published for two weeks prior to the time fixed for holding the term of the court as changed by said order, in some newspaper published in said county; and if there be no such paper published in said county, then a copy of said order shall be posted by the sheriff of the county at each place where Justices' Courts are held in the county, and at the court-house door, for two weeks, as aforesaid, and it shall be the duty of the County Clerk to make out and forward forthwith to the Secretary of State a certified copy of the order making such change; and all process returnable to the terms ~~as~~ fixed by this law shall be as valid, in case of a change of terms of holding court, as if made returnable to such term, and all parties shall be held bound to appear at such new term in the same manner as they would have been held to appear at the term from

which the change was made: provided further, that no such change of the times of holding said courts shall be made oftener than once in every two years, unless to obviate a conflict with the terms of the District Court, such change to be rendered necessary by an act of the Legislature changing the times of holding District Court having jurisdiction in such county or counties; nor shall such change be so made as to require or permit the holding of any fewer terms of the county courts for both civil and criminal business than is now required by the Constitution of the State of Texas.

Sec. 3. The County Court shall have exclusive original jurisdiction of all misdemeanors, except misdemeanors involving official misconduct, and except cases in which the highest penalty or fine to be imposed may not exceed two hundred dollars, and except in counties where there is established a Criminal District Court: provided, however, that nothing contained in this section shall be so construed as to prohibit the District Court from hearing and finally determining all charges of felony, whether the proofs develop a felony or a misdemeanor, and said courts shall have exclusive original jurisdiction in all civil cases where the matter in controversy shall exceed two hundred dollars in value, and not exceed five hundred dollars, exclusive of interest, and jurisdiction in the forfeiture and final judgment of all bonds taken in criminal cases, of which the County Court has jurisdiction and concurrent jurisdiction with the District Court when the matter in controversy shall exceed five hundred dollars, and not exceed one thousand dollars, exclusive of interest; but shall not have jurisdiction of suits to recover damages for slander or defamation of character; nor of suits for the recovery of lands; nor of suits for the enforcement of liens upon land; nor of suits in behalf of the State, for escheats; nor of suits for the forfeiture of charter of corporations and incorporated companies. They shall have appellate jurisdiction in cases civil and criminal, of which Justices' Courts have original jurisdiction, but of such civil cases only where the judgment of the court appealed from, or the amount in controversy, shall exceed twenty dollars, exclusive of costs, and in criminal cases of which Mayors' and Recorders' Courts have jurisdiction, and after motion for new trial in the court below has been overruled, and notice of appeal given in open court. In all appeals from Justices', Mayors' or Recorders' Courts, there shall be a trial *de novo* in the County Court, and when the judgment rendered, or fine imposed, or the amount in controversy shall not exceed one hundred dollars, exclusive of interest and costs, such trial shall be final; but if the judgment rendered, or fine imposed, or the amount in controversy, shall exceed one hundred dollars, an appeal therefrom may be taken to the Court of Appeals. In all cases, civil and criminal, of which the County Court has exclusive or concurrent original jurisdiction, and in all cases appealed from Justices' Courts, if in said last named cases the judgment rendered or fine imposed, or the amount in controversy in the County Court shall exceed one hundred dollars, an appeal shall lie to the Court of Appeals, under the same rules and regulations as are prescribed by law for the regulation of appeals from the District to the Supreme Court of the State of Texas. In all proceedings of administration and guardianship, an appeal shall lie to the District Court under such rules and regulations as are prescribed by the law regulating administrations of estates of decedents and wards. In all counties where there is a Criminal

District Court, appeals in criminal cases from Justices', Mayors', and Recorders' Courts, and all other inferior courts and tribunals shall lie directly to such Criminal District Courts.

Sec. 4. The County Courts shall have the general jurisdiction of a probate court to probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards; to grant letters testamentary, and of administration and guardianship; settle accounts of administrators, executors and guardians; transact all business appertaining to estates of deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons; and to apprentice minors as provided by law.

Sec. 5. The County Court or Judges thereof shall have power to issue writs of mandamus, injunctions, attachments, sequestration, garnishment, certiorari, and all other writs necessary to the enforcement of the jurisdiction of said courts; and to issue writs of habeas corpus in all cases in which the Constitution has not conferred the power on the District Judge: and provided further, that no mandamus shall be granted on an ex parte hearing, and any peremptory mandamus granted without notice shall be deemed void: and provided further, that no writ of mandamus shall be issued out before the County Judge against any of the departments of the government.

Sec. 6. Whenever any Judge of a County Court shall be disqualified from trying or sitting in any case pending before him by reason of interest in such cause; or where he may be connected with any of the parties by consanguinity or affinity within the third degree; or where he may have been of counsel in the cause, it shall be the duty of such Judge, upon motion of any party interested in the cause, his agent or attorney, by an order entered of record, to remove such cause into the District Court of the county for adjudication therein; and it shall be the duty of the Clerk of the County Court immediately to make out a transcript of all entries in the minutes of the County Court in such cause, and file the same, together with the original papers of the cause, and a certified copy of the orders made therein, and a statement of the costs which have accrued, with the Clerk of the District Court; and the case shall stand for trial in the District Court as an original suit; and whenever in the case of any proceeding of administration or guardianship pending in any of the County Courts, the County Judge shall be subject to a like disqualification, such proceedings shall, on motion of the executor, administrator or guardian, or any person interested in the administration, or interested in the welfare of the ward, be in like manner transferred into the District Court of the county.

Sec. 7. All causes, both civil and criminal, and proceedings of administration and guardianship now pending in the several District Courts of this State, and all cases, civil and criminal, remaining on the docket of the several Criminal Courts which have been abolished by the adoption of the present Constitution, of which the County Courts have exclusive jurisdiction, are hereby transferred to the County Courts for trial; and it shall be the duty of the Clerks of the District Courts, upon the order of the District Judge made either in term time or in vacation, to certify the original papers and copies of all orders, a statement of the costs incurred in such causes, to the Clerk of the County Court, who shall immediately docket said causes, and they shall stand for trial the same as if originally instituted in said court: provided, that in all such cases

and proceedings of administration and guardianship, when the Judge of the County Court may be disqualified to try the same, they shall remain in the District Court for trial and settlement: provided further, that all papers and records of the estates of deceased persons and minors shall be turned over to the custody of the Clerk of the County Court.

Sec. 8. Prosecutions in the County Court may be commenced by information in writing, which information shall comply with Article 403, Part III, Title four, Chapter three of the Code of Criminal Procedure, filed with the County Clerk by the District or County Attorney, which information shall be based upon the affidavit of some credible person, which shall be filed with the information; or by an affidavit made by some credible person before the Clerk of the County Court, the County Judge, or the County or District Attorney, or Justice of the Peace, and filed with the County Clerk; upon which an information shall be prepared by the District or County Attorney and filed with the County Clerk before the case shall be called for trial; which information or affidavit shall charge the accused of some offense of which the County Court has jurisdiction; and when indictments certified to the County Courts for trial, information or affidavits have been quashed, the person charged shall not be discharged if a new information or affidavit is filed against him; and, if the County Attorney requests, such person shall be held a reasonable time for such information or affidavit to be filed; and, upon the filing of the information or affidavit provided for in this section, the Clerk of the County Court shall issue a warrant for the arrest of the accused party; said warrant shall be in compliance with Article 216, Part III, Title two, Chapter two of the Code of Criminal Procedure, and the warrant shall be executed in the manner specified in said chapter.

Sec. 9. The provisions of the Code of Criminal Procedure of this State and the several acts amendatory of and supplemental thereto, shall govern the practice and procedure in the County Courts, so far as the same are applicable and not in conflict with the provisions of this act.

Sec. 10. Before each term of the County Court for criminal business, there shall be drawn in the manner which is now or may be hereafter prescribed by law, the names of a sufficient number of persons to serve as jurors at said term, and on the first day of the term or on the day on which said persons are summoned to appear, the names of all the jurors upon the venire shall be called, and thereupon two petit juries, to consist of six men each, shall be organized under the direction of the court, to be known as juries numbers one and two; and the juries so organized shall take the oath hereinafter prescribed; and in case any juror so summoned shall fail to attend or the number be reduced by challenge or other cause, the court shall require such additional number to be summoned as may be deemed necessary, so that said juries can be organized. The oath administered to a juror in criminal cases shall be as follows: "You do solemnly swear, that in the case of the State of Texas against (A. B.), the defendant, you will a true verdict render, according to the law and evidence, so help you God."

Sec. 11. All criminal cases shall be tried by a jury, unless waived by the defendant or his attorney, and in all cases where a jury has been empaneled and the defendant shall be convicted, a jury fee of three dollars shall be taxed against him, to be collected as other costs, and which shall be collected shall be paid out by the clerk in the manner provided in

Sec. 12. If any party to a suit in the County Court shall desire to introduce in evidence any instrument of writing which is of record in the office of the Clerk of the Court in which said suit is pending, and the original of said instrument is lost, or said party be not able to procure the same, and said party shall account for the absence of the original in the manner required by law, and shall give the adverse party one day's notice in writing before the case is called for trial, stating in such notice the particular instrument or instruments of writing desired to be used, and the book and page where the same may be found of record, and the intention of said party to use the same in evidence; and said adverse party, or some other person for him, do not on the day after such notice is given, file an affidavit stating that he believes such instrument of writing to be forged, said party so desiring to use the same may prove the contents thereof by calling as a witness the Clerk of said Court, and have him read in evidence from the pages of the record book containing the same the said written instrument; and it shall not be necessary for said party to procure or file certified copies thereof with the papers of the suit.

Sec. 13. A jury in the County Court shall consist of six men, qualified jurors of the county, and in all cases civil and criminal in the County Court, each party shall be entitled to challenge three jurors without showing any cause therefor.

Sec. 14. Witnesses when summoned to attend court shall in civil cases be allowed a compensation of one dollar for each day's attendance and six cents per mile for every mile they may have to travel in going to and returning from the court-house at each term of the court; and no fine shall be imposed on any witness for non-attendance in civil cases, nor shall any attachment issue against his body for such non-attendance, until it is shown to the court by the affidavit of the party, his agent or attorney, causing the witness to be summoned, that the mileage and one day's compensation has been tendered the witness: provided, that if the party desiring the testimony of such witness shall swear that he is pecuniarily unable to make such tender of per diem and mileage, he shall not be deprived of such attachment; and that he believes his testimony is material.

Sec. 15. Witnesses in civil cases who may have been duly summoned, and who remain in attendance upon the court, whether they have been called to testify or not, may at any time during the term make an affidavit in writing before the Clerk, stating the number of days attendance and the distance they have been compelled to travel in going to and returning from the court, which affidavit shall be filed by the Clerk among the papers in the cause; and where a party has advanced the mileage and per diem as contemplated in the preceding section, the witness shall be required to make the affidavit as provided for by this section, upon the motion of any party having made said advance; and all witness fees and mileage shall be taxed in the bill of costs against the party cast in the suit: provided, that where a witness has been summoned and is not called to testify, his fees and mileage shall be taxed as a part of the costs, and shall be paid by the party causing him to be summoned.

Sec. 16. The said courts shall have the same power as District courts to punish contempts by fines or imprisonment, or both, in the discretion of the court.

Sec. 17. All suits in which answers are filed in due time, and in which a jury is not demanded, shall be tried or disposed of in the order

in which they were filed, unless otherwise ordered by the court, with the consent of the parties or their attorneys. On the first day of actual session of each term, all cases in which answers have been filed shall be called for the purpose of noting the demand of a jury in any of such cases; upon which call either party may demand a jury, and the Judge shall then fix some day for taking up the calendar of jury cases, and upon the calling of the appearance docket for default on default day either party to an appearance case may demand a jury. The demand of a jury shall in all civil cases be accompanied by a deposit with the Clerk of three dollars as a jury fee, or by the affidavit of the party that he is unable, by reason of his poverty, to pay the costs of court; which jury fee shall be taxed in the bill of costs; but no jury fee shall be taxed in any case where a jury has not been demanded, and all cases in which a jury has been demanded shall be placed upon the calendar of jury cases, to be made up by the Clerk for the use of the Judge, (and a copy of said calendar shall be by the clerk prepared for the use of the bar); and on the day fixed for taking up the trial and disposition of jury cases, the court shall proceed to try and dispose of the cases on said calendar in the order in which they were filed, unless otherwise ordered, with the consent of the parties or their attorneys. Jurors in civil cases shall take the following oath: "You, and each of you, swear that in all cases between parties which shall be to you committed, you will give a true verdict therein, according to the law and the evidence given you, so help you God."

Sec. 18. All civil cases in which service has been perfected as provided by the law regulating proceedings in the District Courts, are subject to be called on Wednesday, the third day of the term of the court; and unless the defendant, or party required to plead, shall have appeared and answered the petition, judgment may be entered by default.

Sec. 19. All process, pleading, practice, evidence, procedure and appeals shall be governed by the laws and rules regulating proceedings in the District Courts, so far as applicable; and executions shall be issued by the Clerk of the County Court; and all laws now in force, regulating the mode of issuing executions out of the District Courts, and the mode and manner in which they shall be enforced, returned and recorded, shall be held to apply to executions issued from the County Court, so far as the same are applicable: provided, that execution may issue in fifteen days after the rendition of the judgment, and may be made returnable in sixty or ninety days from the date of its issuance.

Sec. 20. On the first day of actual session of each term of the County Court, held for the disposition of civil business and matters in probate, the court shall, by order entered on the minutes, fix a day of the term for taking up probate business, and upon said day so fixed therefor, the said Court shall proceed to dispose of matters in probate, in the order in which the same shall have been arranged on a special docket of such matters for said term by the Clerk of said Court, (unless otherwise ordered by the Court). The Judge of the County Court may in vacation grant temporary letters of administration or guardianship, and make such orders in reference to the custody and control of the property of estates as may be necessary for the preservation of the same, until the next term of the County Court, under such terms and restrictions as are prescribed by the laws regulating the administration of estates of decedents and wards.

Sec. 21. All laws heretofore regulating the proceedings in District

Courts in matters of probate, except so much of said laws as confer power on the Clerk to act judicially in vacation, shall apply to and govern proceedings in the County Courts, until otherwise provided by law.

Sec. 22. The County Courts of each county in this State shall have a seal with a star of five points in the center, and the words, "County Court of (insert the name of the county) county, Texas," engraved thereon; an impression of which seal shall be attached to all writs and other process, except subpoenas, issuing from said court, and shall be used in the authentication of all official acts of the Clerk; said seal shall be procured by the County Commissioners' Court of the county.

Sec. 23. All fines imposed on jurors, and all fines imposed for contempt of court, by any County Court of this State, and all jury fees imposed by this act, shall constitute a jury fund, to be paid to the County Clerk, and to be disposed of by him in the manner provided for in this act; and said Clerk and the sureties on his bond shall be liable for any misapplication of said fund by said Clerk, or for any failure of said Clerk to apply the same as directed by this act.

Sec. 24. On the last day of each term of the County Court, it shall be the duty of the Clerk of said court to make out a statement in writing, which shall set forth all moneys received by him for jury fees and fines, with the names of the parties from whom received, under this act, up to the date of such statement, and since his previous statement, if any such has been made; and also the name of each juror who has served at such term, the number of days he served, and the amount due him for such service, which statement shall be examined by the Judge holding such court, and if found to be correct, shall be approved and signed by him. Should said Judge consider said statement erroneous, he may make such corrections therein as he may deem necessary, and shall then approve and sign the same; which statement when so approved and signed shall be recorded in the minutes of the court.

Sec. 25. It shall be the duty of the Clerk of the County Court, after the statement provided for in the preceding section shall have been approved, signed and recorded, to pay each juror who had served at such term the amount due him for such service, if there shall be a sufficient amount of money in his hands, received under the provisions of this act, to pay all the jurors who served at such terms; but if there is not a sufficient amount in his hands for that purpose, then he shall pay to each juror his pro rata amount in proportion to his time of service, and shall give to each juror a certificate for the balance due him, which certificate shall be paid out of the County Treasury, and shall be a sufficient voucher for the Treasurer to pay the amount therein certified to be due.

Sec. 26. The County Courts shall have power to hear and determine all motions against Sheriffs or other officers for money received under execution or other process or order issued out of said court, which shall not have been paid to the party entitled to the same, his agent or attorney, on demand, or for other dereliction of duty; and also all motions against attorneys and counsellors at law, where the amount claimed is less than one thousand dollars, exclusive of interest, under the same rules and regulations as are prescribed by law for like proceedings in the District Courts.

Sec. 27. Should the Judge of any County Court not appear at the time appointed for holding the same, like proceedings shall be had as in the District Courts in such cases.

Sec. 28. All proceedings instituted and conducted in the County Court before the passage of this act, which would have been authorized by its provisions had this act been in force at the time said proceedings were instituted and conducted, shall have the same force and effect, and be as valid and binding on all parties undertaken to be affected thereby as if the same had been instituted after the taking effect of this act, and all official acts performed by the County Judge, or Clerk of the County Court, before the passage of this act which would have been authorized by its provisions had this act been in force at the time said official acts were performed, shall be as valid and binding on all parties undertaken to be affected thereby as if the same had been performed after the taking effect of this act.

Sec. 29. All laws and parts of laws in conflict with the provisions of this act, be, and the same are hereby repealed.

Sec. 30. An imperative necessity existing for the immediate passage of this act in order that the courts herein provided for shall go into operation, therefore this act shall be in force from and after its passage.

Approved June 16, 1876.

Takes effect from and after its passage.

CHAPTER XXVIII.—An Act to amend an Act entitled "An Act to amend Article 382, Title II, Chapter 3 of the Penal Code, approved October 26, 1866, amendatory of an Act entitled 'An Act to establish the Penal Code,' approved August 28, 1856.

Section 1. Be it enacted by the Legislature of the State of Texas, That Article 382, Title II, Chapter 3 of the Penal Code be so amended as to read as follows:

Article 382. If any person shall go into any public place, or into or near any private house, or along any public street or highway near any private house, and shall by loud and vociferous or obscene, vulgar or indecent talking, or by swearing or cursing, or by exposing his person, or by rudely displaying any pistol or other deadly weapon in such public place, or upon such public street or highway, or near such private house, in a manner calculated to disturb the inhabitants thereof, he shall be fined in any sum not exceeding one hundred dollars.

Approved June 20, 1876.

Takes effect ninety days after adjournment.

CHAPTER XXIX.—An Act to fix the amount of jury fees in the District, County and Justices' Courts.

Whereas, An imperative public necessity exists for the immediate passage of a law fixing the amounts to be paid as jury fees by parties demanding juries in the District, County and Justices' Courts, as the said courts are to a great extent suspended for the want of such law; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That in the trial of all causes in the District, County and Justices' Courts, the plaintiff or defendant shall, upon application made in open court, have

the right of trial by jury; but no jury shall be empaneled in any civil case in any of said courts unless demanded by a party to the case, and a jury fee be paid by the party demanding a jury.

Sec. 2. That the jury fee to be paid as provided in the preceding section, shall be, in the District Court, the sum of six dollars; in the County Court, the sum of three dollars; and in the Justices' Courts, the sum of three dollars; provided, that such fees shall in all cases be paid to the Clerk of said courts, or to the Justices of the Peace, as the case may be, before entering on the trial of such cases, under such rules as may be prescribed by said respective courts, to be taxed in the bill of costs, as in other causes, and paid by the party cast in the suit; and provided further, that in no case shall any party be deprived of trial by jury where he or she may make affidavit that he or she is too poor to pay said jury fee.

Sec. 3. As an emergency exists, as stated in the preamble hereto, that this act take effect from and after its passage.

Approved June 21, 1876.

Takes effect from and after its passage.

CHAPTER XXX.—An Act to permit the transfer of certain suits from one court to another.

Section 1. Be it enacted by the Legislature of the State of Texas, That all suits now pending in the courts in original counties, from which a new county has been taken, in whole or in part, and the parties thereto reside in such new counties, may, by consent of parties or their attorneys, be transferred, either in term time or vacation, to the corresponding courts of such new counties; such transfer to be in the same manner as changes of venue are made when ordered.

Approved June 21st, 1876.

Takes effect ninety days after adjournment.

CHAPTER XXXI.—An Act to require the Clerks of the District and County Courts of this State to provide and keep indexes and cross-indexes of the names of the parties to all causes in their courts, and to provide a penalty for their failure to comply with the provisions of this act.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Clerks of the District and County Courts of the several counties in this State shall provide, and keep in their respective offices as part of the records of the same, full and complete alphabetical indexes of the names of the parties to all suits heretofore and hereafter filed in their respective courts; said indexes shall be kept in well bound books, and shall state in full the names of all the parties to such suits, and be indexed and cross-indexed so as to show the name of each party, under the proper letter; and reference shall be made opposite each name to the page of the minute book upon which is entered the final judgment in each case.

Sec. 2. Any clerk failing to comply with the provisions of this act shall, upon conviction therefor, before any court having jurisdiction, be fined not less than fifty dollars, nor more than one hundred dollars, for

each offense; and the Judges of the several District Courts of this State are directed to give this act specially in charge to the Grand Jury.

Sec. 3. The County Commissioners' Courts of the several counties in this State shall fix the compensation to be made to the said clerks for the performance of the duties required by this act, to be paid out of the general county fund; but no allowance or payment shall be made to any clerk for indexing suits filed during his term of office, and after the passage of this act.

Approved June 21, 1876.

Takes effect ninety days after adjournment.

CHAPTER XXXII.—An Act to make persons liable for damages to the owner for buying stolen property after nightfall.

Section 1. Be it enacted by the Legislature of the State of Texas, That if any person within this State, shall purchase, trade, or barter for any personal property, after nightfall, and the same shall afterwards be proved to be stolen property such person so purchasing, or trading for said property, shall be liable to the true owner thereof in three times the value of the same, to be recovered in any court of the State, having competent jurisdiction of the case.

Sec. 2. That nothing in this act shall be so construed as to relieve any person so offending from prosecution under the criminal laws of this State.

Approved June 22, 1876.

Takes effect ninety days after adjournment.

CHAPTER XXXIII.—An Act to prohibit the sale, exchange or gift of intoxicating liquors in any county, Justice's precinct, city or town in this State that may so elect; prescribing the mode of election, and affixing a punishment for its violation.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be the duty of the Commissioners' Court of each county in the State, upon the written petition of fifty qualified voters of said county, or upon such petition by twenty qualified voters of any Justice's precinct, town or city therein, to order an election to be held by the qualified voters of said county, Justice's precinct, town or city, as the case may be, to determine whether the sale of intoxicating liquors, and medicated bit-ters producing intoxication, shall be prohibited in such county, Justice's precinct, town or city, or not; provided, that nothing herein contained shall be construed to prohibit the sale of wines for sacramental purposes; nor alcoholic stimulants as medicines in cases of actual sickness, when sold upon the written prescription of a regular practicing physician, certifying upon honor that the same is actually necessary as a medicine.

Sec. 2. It shall be the duty of such court, at its first session, after the filing of such petition with the Clerk thereof, to order an election to be held at the regular voting place or places within the proposed and prescribed limits, upon a day not exceeding thirty days from the

date of said order; and said order shall express the object of said election. The Clerk shall post, or cause to be posted, at least five copies of said order at different public places in each Justice's precinct, town or city in which such election shall be held, for at least twenty days prior to the day of election. Said court shall appoint and qualify the proper officers under existing laws. At said election those who favor the prohibition of the sale of intoxicating liquors within the prescribed limits shall have written or printed on their tickets the words "For Prohibition;" and those who oppose it shall endorse on their tickets the words "Against Prohibition." The officers holding said election shall in all respects not herein specified conform to the existing laws regulating elections; and after the polls are closed, they shall proceed to count the vote; and they shall, within ten days thereafter, make due report of said election to the aforesaid court.

Sec. 3. Said court shall hold a special session on the eleventh day after the holding of the aforesaid election, or as soon thereafter as practicable, for the purpose of opening the polls and counting the votes; and if a majority of the votes cast are "For Prohibition," said court shall immediately make an order declaring the result of said vote, and absolutely prohibiting the sale of intoxicating liquors within the prescribed bounds, (except for the purposes specified in section one of this act), until such time as the qualified voters therein may, at a legal election held for the purpose, by a majority vote, decided otherwise; and said order of court so declaring the result of election and prohibiting the sale of intoxicating liquors, shall be published for four successive weeks in the newspaper having the largest circulation in the county; and in such counties as shall have no newspaper, by posting said order at three public places within the prescribed limits. But if a majority voting at such election vote "Against Prohibition," the court shall make an order declaring the result, and have the same entered of record in the office of the clerk of said court.

Sec. 4. No election under the foregoing sections shall be held within the same prescribed limits in less than twelve months after an election under this act has been held therein; but a failure to carry prohibition in a county shall not prevent such election being immediately thereafter held in a Justice's precinct, town or city of said county; nor shall the failure to carry prohibition in a town or city prevent an election being immediately thereafter held in the same Justice's precinct; nor shall the holding of such election in any Justice's precinct in any way prevent the holding of an election for the entire county immediately thereafter.

Sec. 5. When any such election has been held, and has resulted in favor of prohibition, and the aforesaid court has made the order declaring the result, and the order of prohibition, and has caused the same to be published as aforesaid, any person or persons who shall thereafter, within the prescribed bounds of prohibition, sell, exchange or give away, with the purpose of evading the provisions of this act, any intoxicating liquors whatsoever, or in any way violate any of the provisions of this act, shall be subject to prosecution, by information or indictment, and shall be fined in a sum not less than twenty-five nor more than two hundred dollars for each and every violation of any of the provisions of this act.

Sec. 6. It is hereby made the duty of the District Judges to give this act in charge to the grand juries; and it is made the especial duty

of the County Attorneys, the County Judges, and all Justices of the Peace having jurisdiction in the premises to see that this act is rigidly enforced. An officer failing to discharge his duties under this act in any respect shall be subject to indictment, and, if convicted, shall be fined not less than one hundred nor more than one thousand dollars. All fines collected under this act shall be paid into the County Treasury, and shall constitute a part of the school fund for the county, Justice's precinct, town or city in which the law is in force.

Sec. 7. All laws and parts of laws in conflict with this act are hereby repealed.

Approved June 24, 1876.

Takes effect ninety days after adjournment.

CHAPTER XXXIV.—An Act making an appropriation of forty thousand dollars to complete and finish the State Agricultural and Mechanical College.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of forty thousand dollars, or so much thereof as may be necessary, be, and the same is hereby appropriated out of any money in the Treasury not otherwise appropriated, for the purpose of constructing and completing the buildings and improvements, and for providing the furniture necessary to put the State Agricultural and Mechanical College in immediate and successful operation.

Sec. 2. The completion of the college building being an emergency requiring the speedy operation of this act, and an imperative public necessity existing, that this act take effect and be in force from and after its passage.

Approved June 24, 1876.

Takes effect from its passage.

CHAPTER XXXV.—An Act to prevent the removal of rock, earth, sand, coal, slate, or minerals, from the premises of another, and prescribing a punishment therefor.

Section 1. Be it enacted by the Legislature of the State of Texas, That hereafter it shall be unlawful for any person to enter upon the land or premises of any citizen of this State and take or remove therefrom any rock, earth, sand, coal, slate, or mineral imbedded in the soil or lying upon the surface thereof, without the consent of the owner or his duly authorized agent.

Sec. 2. Any person offending against the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof, before any court of competent jurisdiction of this State, shall be fined in any sum not less than three, nor more than ten times the value of the rock, earth, sand, coal, slate, or mineral, so taken and removed.

Approved June 24, 1876.

Takes effect ninety days after adjournment.

CHAPTER XXXVI.—An Act to regulate the appointment and define the duties of Notaries Public.

Whereas, an emergency exists which makes it necessary that a sufficient number of Notaries Public shall be immediately appointed in each of the counties of this State, to transact all the notarial business thereof; therefore:

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be appointed by the Governor, by and with the consent of two-thirds of the Senate, a convenient number of Notaries Public for each county in this State, not less than five nor more than twenty, who shall hold their offices for two years from the day of their qualification: provided, that the Notaries Public appointed during this session of the Legislature shall hold their offices until the termination of the first session of the Sixteenth Legislature.

Sec. 2. When a Notary Public is appointed to succeed another, his commission shall specify what Notary he succeeds.

Sec. 3. Every person who may be appointed a Notary Public, before he enters on the duties of his office, shall execute a bond, with good and sufficient security, to be approved by the Clerk of the County Court of his county, payable to the Governor and his successors in office, in the sum of one thousand dollars, conditioned for the faithful performance of the duties of his office; and shall also take and subscribe the oath of office prescribed by the Constitution, which shall be endorsed on said bond, with the certificate of the officer administering the same; said bond shall be recorded in the office of the Clerk of the County Court, and deposited in said office, and shall not be void on the first recovery, and may be sued on in the name of any party injured, from time to time until the whole amount thereof has been recovered.

Sec. 4. Every Notary Public who shall be guilty of any wilful neglect of duty or malfeasance in office may be indicted by the grand jury, and on conviction shall be removed from office; and whenever any Notary Public shall remove permanently from the county or precinct for which he is appointed, his office shall thereupon be deemed vacant.

Sec. 5. Every Notary Public shall provide a seal of office, whereon shall be engraved, in the center, a star of five points, and the words "Notary Public, County of —, Texas," around the margin (the blank to be filled with the name of the county for which the officer is appointed), and he shall authenticate all his official acts therewith; and when any Notary Public shall vacate his office in any manner, his record books and all public papers in his office shall be deposited with the Clerk of the County Court of his county.

Sec. 6. Notaries Public may take the acknowledgment or proof of all instruments of writing in the manner provided by law, to entitle them to registration, and to give certificates of all such acknowledgments and proofs under their hands and official seals; they may take the examination and acknowledgment of married women to all deeds and instruments of writing conveying or charging their separate property, and their interest in the homestead, in the manner provided by law.

Sec. 7. Every Notary Public shall have power to administer oaths, and give certificates thereof under his hand and official seal. They

may take the proof of acknowledgments of all instruments of writing relating to commerce and navigation, and also of letters of attorney and other instruments of writing, make declarations and protests, and certify under their hand and seal the truth of the matters or things done by virtue of their offices.

Sec. 8. Every Notary Public shall procure and keep a well bound book, in which shall be entered the date of all instruments acknowledged before him, the date of such acknowledgment, the name of the grantor or maker, the place of his residence or alleged residence, whether personally known or introduced, and if introduced, the name and residence or alleged residence of the party introducing him. If the instrument be proved by a witness, the residence or alleged residence of such witness, whether such witness is personally known to him or introduced, and if introduced, the name and residence of the party introducing him; the name and residence of the grantee. If land is conveyed or charged by such instrument, the names of the original grantee thereof shall be kept, and the county where the land is situated. The book herein required to be kept, and the statements therein required to be entered, shall be an original public record, and shall be transmitted by such Notary to his successor, and the same shall be open to inspection by any citizen at all reasonable times; and such Notary Public shall give a certified copy of any record in his office to any person applying therefor, on payment of all fees thereon.

Sec. 9. All declarations and protests made and acknowledgments taken by Notaries Public, and certified copies of their records and official papers, shall be received as evidence of the facts therein stated in all the courts of this State.

Sec. 10. Notaries Public shall have power to take the depositions of witnesses in the manner prescribed by law, to attest the oath of any person to a petition or answer in any suit, and when so attested shall be valid in all the courts of this State, and they shall be entitled to such fees for their services as shall be prescribed by law.

Sec. 11. Copies of all records, declarations, protests, and other official acts of Notaries Public, may be certified by their successors with whom they are deposited, and shall have the same authority as if certified by the Notary by whom they were originally made.

Sec. 12. When the Governor of the State shall make appointments of Notaries Public as required by the twenty-sixth section of article four of the Constitution, and said Notaries Public shall qualify, it shall be the duty of the Secretary of State to furnish to the Clerks of the County Courts such a printed list of all the Notaries Public in the State so appointed and qualified; and upon any subsequent appointment of such Notaries Public, it shall likewise be the duty of said Secretary of State to furnish a like list to said Clerk; and it shall be the duty of the Clerk of the County Court to preserve said list in his office for public inspection, and post a copy thereof on the court-house door.

Sec. 13. When a Notary is appointed, the Secretary of State shall forward the commission to the Clerk of the County Court of the county where the party resides, and the said Clerk shall immediately notify said party to appear before him in twenty days from the day of such notice and qualify according to law: provided, that if said party shall be absent from such county at the time of the reception of such commission by said clerk, then he shall have twenty days from his return to said county in which to appear and qualify. The Clerk receiving the commission

shall endorse thereon the day on which the notice was given, and if the party does not qualify within the time limited, the appointment shall be void, and the Clerk shall certify on the back of the commission, under the seal of the court, that the party has failed to qualify, and return it to the Secretary of State.

Sec. 14. Any Notary Public who shall willfully fail, neglect, or refuse to comply with any of the requirements of this act, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not to exceed one hundred dollars, and not less than twenty-five dollars.

Sec. 15. The Clerk of the County Court shall be entitled to a fee of one dollar from every Notary Public who qualifies before him.

Sec. 16. That all laws or parts of laws in conflict with the provisions of this act be, and the same are hereby repealed; and that this act take effect and be in force from and after its passage.

Approved June 24, 1876.

Takes effect from its passage.

CHAPTER XXXVII.—An Act to abolish the office of Notary Public as it existed prior to the adoption of the present Constitution.

Section 1. Be it enacted by the Legislature of the State of Texas, That thirty days after the passage of this act, the office of notary public, as it existed prior to the 18th day of April, A. D. 1876, be, and the same is hereby abolished; and all commissions issued to Notaries Public prior to the said April 18th, 1876, by virtue of any law then in force, are revoked, and shall, after the expiration of the thirty days aforesaid, be of no force and effect.

Sec. 2. The Governor is hereby authorized and required to proceed immediately to the appointment of Notaries Public, under existing laws, in the several counties in this State, without reference to appointments made prior to the 18th of April, 1876.

Sec. 3. That on account of the public necessity of having Notaries Public appointed at once, and the emergency being that the Senate must pass on the nominations made by the Governor before adjournment, this act take effect and be in force from and after its passage.

Approved June 26, 1876.

Takes effect from its passage.

CHAPTER XXXVIII.—An Act to provide for the public printing, binding and stationery, by contract.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Attorney General, Treasurer, and Secretary of State, be, and are hereby constituted a Board of Public Printing, authorized and required to contract with any suitable person or persons, firm or firms, who are residents of and doing business in this State, to furnish such stationery as may be required by law or needed by any department of the State government, except the Judicial Department, and to print and bind the Laws and Journals of each House together with such printing and binding as may be ordered by each House, and to do such

other printing and binding as may be required by law or needed by any department, except the Judicial Department, and except such as may be done at the Deaf and Dumb Asylum; provided, that said contract shall be for the term of two years, and until a new contract shall be made and approved: and provided further, that when printing is ordered in German, Spanish, or other language than English, a separate contract may be made for the work in each of such languages; and the Printing Board shall employ on such terms as they deem best, one or more competent translators to translate the laws and such other matter as may be required, into other languages than English, when necessary.

Sec. 2. That the Secretary of State shall, every two years, advertise for thirty days in two or more, not exceeding five, weekly newspapers published in this State and having the largest circulation, for sealed proposals for furnishing such stationery and for doing such printing and binding, and shall in said advertisement, state a time and place when and where said proposals shall be received and opened, and contract awarded, not exceeding forty days from the date of the first publication of said advertisement; and he shall, in said advertisement, give such specifications and estimates of the probable amount of printing, binding and stationery that will be required, as may be practicable. The proposals shall be for the public printing, and for stationery, separately; and the bid for the printing shall include binding, blank books and such paper as may be necessary to be used in the execution of the work; and that for stationery shall include paper on which there is no printing; envelopes, and such other articles as are usually embraced in the term "stationery." The proposals shall be sealed and addressed "To the Secretary of State," and shall be indorsed with the statement that they are proposals for public printing, or for stationery; and, when received, shall be filed carefully away by the Secretary of State in his office, and the seals thereof shall not be broken until the day named in the advertisement for awarding the contract; and shall be opened in the presence of the Printing Board and such bidders as may desire to be present. The bids shall be examined by the Printing Board, a careful comparison made, and the contract awarded to the lowest and best responsible bidder whose bid shall be below such maximum rates as are hereinafter prescribed: provided, that each bid shall be accompanied by a guarantee, signed at least by two responsible citizens, guaranteeing that if the contract be awarded to the said bidder, that he or they will enter into contract, and give a good and efficient bond to carry out the same.

Sec. 3. That the public printing shall be divided into five classes, as follows:

First Class.—The First Class shall include the printing and binding of the laws, journals, department reports, Governor's message and like documents; which shall be printed on white calendered No. 2 book paper, of uniform color, 24x38 inches in size, and weighing not less than forty-five pounds to the ream, on long primer type (except tabular work, which may be in such type smaller than long primer as the nature of the work and good taste may require), the pages to be fifty-seven ems long, including head and foot lines, and thirty-two ems wide, long primer measure, and not to contain less than 1800 ems; and when printed the laws and reports shall be neatly folded, stitched and covered; and the journals and message folded, stitched and trimmed. Cover paper shall be thirty-five pounds to the ream. The maximum prices for work of

the First Class shall be: For paper, white and cover, \$9 per ream, and no allowance shall be made for waste; composition, \$1 per 1000 ems, printer's measurement; presswork, 16 pages to the form (unless the nature of the work requires a smaller number of pages), \$1 per token of 240 impressions or less; binding, 50 cents per one hundred for folding, stitching and covering first signature of sixteen pages, and 25 cents per one hundred for each additional signature of sixteen pages or less; for folding, stitching and trimming, without covering, 40 cents per one hundred for first signature of sixteen pages, and 20 cents per one hundred for each additional signature of sixteen pages or less; provided, no matter shall be leaved, except by the express direction of the Printing Board.

Second Class.—Work of the Second Class shall consist of all blanks and printed stationery required by any department of the State Government, except the Judicial Department, and shall be on first class sized and calendered white wove paper, of such dimensions and weights as the nature of the work may require. The maximum rates for such work shall be as follows: For composition, 90 cents per 1000 ems, printer's measurement; for presswork, on forms the size of a flat cap sheet or less, 75 cents per token; on forms larger than flat cap, \$1 per token; and a token shall be 240 impressions, or less, when the number of blanks ordered shall require a less number of impressions. The maximum rates for paper required for work of the second class shall be as follows: Letter paper—ten pounds to the ream, \$4.20 per ream; twelve pounds to the ream, \$5.05 per ream. Flat cap paper—twelve pounds to the ream, \$5.05 per ream; fourteen pounds to the ream, \$5.90 per ream; sixteen pounds to the ream, \$6.75 per ream; eighteen pounds to the ream, \$7.60 per ream; twenty pounds to the ream, \$8.40 per ream. Demy paper—twenty-eight pounds to the ream, \$11.75 per ream; thirty pounds to the ream, \$12.60 per ream. Folio post paper—eighteen pounds to the ream, \$7.60 per ream; twenty-two pounds to the ream, \$9.25 per ream; twenty-four pounds to the ream, \$10 per ream. Medium paper—twenty-eight pounds to the ream, \$11.75 per ream; thirty-six pounds to the ream, \$15 per ream. Double flat cap paper—twenty-eight pounds to the ream, \$11.75 per ream, thirty-two pounds to the ream, \$13.45 per ream; thirty-six pounds to the ream, \$15 per ream; forty pounds to the ream, \$16.80 per ream. Super royal paper—fifty-four pounds to the ream, \$22.70 per ream. For ruling work of the Second Class, the maximum price shall be 40 cents per one hundred for each passage through the ruling machine. For binding work of the Second Class, the maximum price shall be: For pads of one hundred sheets each, quarter sheet cap, demy or folio, 20 cents per pad; half sheet cap, demy or folio, 25 cents per pad. For quarter binding, quarter sheet cap, demy or folio, 25 cents each per quire; half sheet cap, demy or folio, 40 cents per quire. For half binding, quarter sheet cap, demy or folio, 50 cents per quire; half sheet cap, demy or folio, 75 cents per quire. For binding full skiver, quarter sheet cap, demy or folio, 60 cents per quire; half sheet cap, demy or folio, 90 cents per quire.

Third Class.—Work of the Third Class shall consist of blank books, either ruled and printed or ruled without printing. The paper used shall be sized and calendered, made of linen stock, and of the quality known among paper dealers as "P" paper; and the following shall be maximum rates: Cap paper—eighteen pounds to the ream, plain ruled, half bound, \$1.25 per quire; do, printed heads, \$1.75 per quire; do, plain ruled, extra full bound, \$2 per quire; do, printed heads \$2.50

per quire. Demy paper—twenty-eight pounds to the ream, plain ruled, half bound, \$1.50 per quire; do., printed heads, \$2 per quire; do., plain ruled, extra full bound, \$2.50 per quire; do., printed heads, \$3 per quire. Medium paper—thirty-six pounds to the ream, plain ruled, half bound, \$2 per quire; do., printed heads, \$2.50 per quire; do., plain ruled, extra full bound, \$3 per quire; do., printed heads, \$3.50 per quire. Medium paper—forty pounds to the ream, plain ruled, extra full bound, \$4 per quire; do., printed heads, \$4.50 per quire. Super royal paper—fifty-four pounds to the ream, plain ruled, extra full bound, \$4.50 per quire; do., printed heads, \$5 per quire.

Fourth Class.—Work of the fourth class shall consist of the printing of bills, resolutions, committee reports and such other like work as may be ordered by the Legislature or either house thereof; and shall be on first class sized and calendered white wove flat cap paper of twelve pounds to the ream, printed on pica type, lines numbered in the margin, with space between the lines of the size of pica, the printing to be thirty-six ems pica wide and sixty-five ems in length. The maximum price for work of the fourth class shall be: for two hundred copies, or any number of copies less than two hundred ordered by either house of the Legislature, including composition, paper, press work and binding, \$3.25 per page for as many pages as are contained in one copy thereof; and when more than two hundred copies of work mentioned in this class are ordered by either house of the Legislature, the printer shall be paid for the paper, presswork and binding only for such additional copies, at such rates as are contracted for, for work of the Second Class.

Fifth Class.—The Fifth Class shall consist of the publication of executive proclamations, advertisements and like documents; and the maximum price shall be \$1 per square of one hundred words for the first publication and 50 cents per square for each subsequent publication that may be ordered, and fractional parts of a square at proportionate rates, and each square shall contain not less than one hundred words.

Sec. 4. That when proclamations, advertisements, and like publications are authorized and required by law to be published in more newspapers than one, they shall be published under like rules: provided, that proclamations and like documents shall not be published in more than two newspapers in each Congressional District, and at different points, and shall not be inserted for a longer period than three months; and proposed amendments to the Constitution shall be published once a week for four weeks, commencing at least three months before the time specified by the Legislature for an election thereon, in one weekly newspaper in each county in which such a newspaper may be published; and all claims presented for publishing advertisements shall be accompanied by a copy of the advertisement as printed, and the affidavit of the publisher stating the dates when the same was published.

Sec. 5. That the maximum rates for stationery shall be as follows: Legal cap paper—eighteen pounds to the ream, seven dollars and twenty cents per ream; sixteen pounds to the ream, six dollars and forty cents per ream; fourteen pounds to the ream, five dollars and sixty cents per ream. Foolscap paper—sixteen pounds to the ream, six dollars and forty cents per ream; fourteen pounds to the ream, five dollars and sixty cents per ream. Letter paper—twelve pounds to the ream, four dollars and eighty cents per ream; ten pounds to the ream, four dollars per ream. Note paper—eight pounds to ream, three dollars and twenty cents per ream; six pounds to ream, two dollars and forty cents per

ream; five pounds to ream, two dollars per ream. Engrossing paper—twenty-eight pounds demy, one-quarter sheets, seven dollars and twenty cents per ream; eighteen pounds cap, one-half sheets, eight dollars per ream. Envelopes—XX white or buff, number ten plain, seven dollars and twenty cents per thousand; printed, eight dollars and eighty cents per thousand; XX white or buff, number six, plain, four dollars and eighty cents per thousand; printed, six dollars and forty cents per thousand; XX white or buff, number five, plain, four dollars per thousand. Blotting paper—one hundred and twenty pounds to ream, six dollars and forty cents per one hundred sheets; one hundred pounds to ream, five dollars and twenty cents per one hundred sheets. Pencils—the kind to be specified in bid, eight dollars per gross. Red ink—the manufacturer to be named in bid, two dollars and forty cents per dozen. Mucilage—quarts, seven dollars and twenty cents per dozen; pints, four dollars and eighty cents per dozen. Steel pens—brand to be named, two dollars per box. Penholders—five dollars and sixty cents per gross. Rubber bands—best, all sizes, two dollars and forty cents per box. Mammoth ink and pencil erasers—four dollars per dozen. Rubber rulers—twelve inch, one dollar and twenty cents each. Wood rulers—fifteen inch, eighty cents each. Erasing knives—eighty cents each. Recording ink—maker to be named in bid, quarts, fourteen dollars and forty cents per dozen. Copying ink—maker to be named in bid, quarts, nineteen dollars and twenty cents per dozen. Inkstands—C. H. number three, sixty cents each; glass, flat, eighty cents each. Paper fasteners—forty cents per box.

Sec. 6. That all printing and stationery not embraced within the specifications of this act shall be furnished by the contractors at rates in proportion to those fixed in the contract for work or stationery of like nature, to be approved by the Board of Public Printing.

Sec. 7. That at any time after a contract has been made and entered into with any person or firm as herein provided, the Legislature reserves the right to abrogate said contract, if said contract is not executed, or if said work is not performed in accordance with the provisions of this act; and to alter or amend by enactment the maximum rates for such printing and stationery; that the Board of Public Printing shall have power, and is hereby required, when the Legislature is not in session, to cancel the contract with the Public Printer whenever he shall fail to do the public printing as promptly as the exigencies of the public service demands; and it shall be their duty to let out a new contract in the manner herein provided; provided, however, such contract shall not be cancelled without the consent of the Governor and Comptroller thereto; and that nothing in the contract with the printer shall prevent the Deaf and Dumb Asylum from doing work for any of the departments.

Sec. 8. That there shall be printed not less than eight thousand copies of the laws of a general nature, and as many more as the Printing Board may require, not to exceed twelve thousand in all; and fifteen hundred copies of the special laws, including all acts for private relief; all acts incorporating towns and cities; all acts having a local application; all of a personal nature; and all acts incorporating private associations of every description, that may be passed at each session of the Legislature; and five hundred copies of the Journals of each house of the Legislature; and one thousand copies of the laws of a general nature in the Spanish language, and fifteen hundred copies in the German language; provided, that when printing is required in other languages than

English, fifty per cent. additional may be allowed for composition. There shall be printed, under the supervision of the Secretary of State, eleven hundred copies of the annual reports of the Comptroller of Public Accounts, Treasurer, Commissioner of the General Land Office, Superintendent and Financial Agent of the Penitentiary, Superintendent of the Lunatic Asylum, of the Asylums of the Blind, Deaf and Dumb; and the reports of all other officers who are required to report to the Governor or the Legislature; three hundred copies of which report shall be delivered by the Secretary of State to the two houses of the Legislature, for their use, at as early a day as practicable after they are printed; three hundred copies shall be delivered to the officer making the report, for his use; and the remaining five hundred copies shall be kept by the Secretary of State for the public use; provided, that the Printing Board may change the number of any of said reports to be printed to not less than three hundred nor more than two thousand. There shall be printed such number of copies of the messages of the Governor and other documents as the Legislature, or either House, may order.

Sec. 9. That the Secretary of the Senate and the Chief Clerk of the House of Representatives shall cause the journals of their respective houses to be furnished to the printer contracted with to publish their proceedings, for the purpose of being printed; and, when printed, the manuscript journals shall be returned and filed in the archives of the Legislature; and the said Secretary and Chief Clerk, respectively, shall furnish to the said printer a comprehensive index of the same, which shall be printed at the end of the respective journals. It shall be the duty of the Secretary of State to cause copies of all laws and resolutions to be furnished to the printer contracted with, as early as possible after they severally shall have been approved or passed. He shall also furnish to the printer contracted with, a comprehensive index to the said laws, which shall be printed in like type and style to the index of the general laws of the Ninth Legislature.

Sec. 10. That the whole number of laws and journals, reports of public officers, and other public documents authorized to be printed, shall be delivered at the office of the Secretary of State; except such printing as may be ordered by the two houses of the Legislature, or either of them, for their use, which shall be delivered to such persons and at such times as they or either of them may direct.

Sec. 11. That the laws and journals shall be delivered within sixty days after the last copy shall have been furnished to the printer contracted with to do the work. The reports of public officers shall be required to be delivered to the Governor by the respective officers making the same, in sufficient time to be delivered to the printer one month before the meeting of the Legislature; and if so furnished to said printer, shall be delivered by him to the the Secretary of State within the first week of said session; and if furnished less than one month before the meeting of the Legislature, or after, the same shall be delivered by said printer to the Secretary of State within one month after they are so furnished. The Secretary of State shall certify that the laws thus published are true copies of the originals in his office, and also certify the date upon which the Legislature adjourned; which certificate shall be appended to and printed at the end of each volume. The Secretary of State shall also superintend the printing of the same, and shall read and correct the proof; provided, however, that this requirement shall not dispense with the duty of the printer to furnish some competent person or

persons also to read and correct the proof; and provided further, that should such laws be printed at any point away from the seat of government, the actual expenses of the Secretary of State, while attending at said place for the purpose of supervising the publication of the same, shall be paid out of the appropriation for public printing, and deducted from the amount due for the printing upon which this additional expense was incurred.

Sec. 12. That the person or persons with whom the Board shall enter into contract under the provisions of this act shall immediately enter into a bond, with two or more good sureties, in such sum as said Board of Public Printing may deem adequate for the protection of the State, payable to the State of Texas; conditioned that he or they will faithfully perform all the stipulations of their contract, and that they will also do and perform everything required of them as such contractors under this act; which bond shall be approved by said Board, and filed in the office of the Secretary of State. On breach of said bond, the same may be put in suit upon the order of the Governor, which suit may be brought in the county in which the seat of government may be located, and said bond shall not become void on the first recovery, but suit may be maintained thereon until the whole amount thereof be recovered; provided, that the current printing of the Legislature shall be done at the city of Austin.

Sec. 13. All accounts for printing done, or stationery furnished, under the provisions of this act (except that for the Legislature when in session), shall be audited as follows: The account shall be verified by the affidavit of the person or persons contracted with, or some one in their employ having an oversight of the work, that said account is just and correct, that the amount of work charged for has actually been performed, or the actual amount of stationery delivered, and that the prices charged in said account are in accordance with the stipulations of the contract, and be accompanied with a sample of the work done, and stationery furnished. After which it shall be examined by the practical printer and Printing Board, and if found correct, approved by said Board. Such claim, when thus examined and approved, shall be sufficient authority for the Comptroller to issue his warrant, to be paid out of the appropriations for public printing and stationery.

Sec. 14. That hereafter all accounts due for printing done, or for stationery used, in either house of the Legislature, shall, in addition to the requirements contained in the above section, be approved by the Chairman of the Committee on Public Printing, and the Chairman of the Committee on Contingent Expenses of the house ordering the work to be done, before being presented to the Printing Board; for which account, when thus approved, the Comptroller is authorized to draw his warrant, payable out of the contingent fund.

Sec. 15. That the Governor is hereby authorized to employ a practical printer, whose duty it shall be to examine all accounts for printing done and stationery furnished for the State, and certify to the accounts for the same; provided, that he shall not receive more than seventy dollars per month for his services.

Sec. 16. That the Secretary of State shall keep a record of his proceeding, and the proceedings of the Board of Public Printing; provided, that a majority of said Board shall be competent to do business; and provided further, that in contracting for the printing and stationery necessary for the immediate use of both houses of the Fifteenth Legisla-

ture, and for the departments of government, the Secretary of State shall not be required to advertise for proposals according to the manner herein prescribed, but shall give such notice as he shall deem necessary and proper, and contract for such printing and stationery as may be needed, until the full provisions of this act can be complied with.

Sec. 17. That no member or officer of any department of the government, except translator, shall be in any way interested in said contracts: and all such contracts shall be in writing, and signed by the Board of Public Printing and contractors, and approved in writing by the Governor, Secretary of State, and Comptroller.

Sec. 18. That "An Act to provide for the public printing by contract," approved March 14, 1874, and "An Act to provide for the proper auditing of the accounts of the Public Printer in certain cases," approved February 10, 1875, and all laws and parts of laws conflicting with the provisions of this Act, be, and the same are hereby repealed.

Sec. 19. That an imperative public necessity exists for a suspension of the rules and immediate passage of this act; and there being no law in force, under which the necessary printing and stationery can be obtained for the Legislature and other departments of the government, the emergency requires that this Act shall take effect and be in force from and after its passage.

Approved June 27, 1876.

Takes effect from its passage.

CHAPTER XXXIX.—An Act to authorize the United States Bonds now in the Treasury to the credit of the permanent school fund, to be disposed of, and the proceeds thereof invested in State Bonds; likewise to invest in the same manner the funds now in the Treasury to the credit of said fund, or that may hereafter be received from all sources.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Board of Education (Governor, Comptroller and Secretary of State), are hereby authorized and empowered to dispose of the United States bonds now in the Treasury, or that may hereafter be received, to the credit of the permanent school fund, and invest the proceeds arising therefrom, in either the registered or coupon bonds issued by authority of this State: provided, it is the opinion of said Board that such investment will be advantageous to the interest of said school fund; and the funds now in the Treasury to the credit of said permanent school fund, or that may hereafter be received from any source, may in like manner be invested in State bonds.

Sec. 2. That should said Board of Education esteem it advisable to make the investment authorized by the preceding section, it shall be the duty of said Board to collect from the State Treasury the semi-annual interest as it becomes due on the bonds so purchased, and place the same to the credit of the available school fund account.

Sec. 3. It being to the advantage of the school fund now in the Treasury that the same should be drawing interest, an emergency exists, that this act shall be in force from its passage; therefore, an imperative public necessity for the passage of this act.

Approved June 30, 1876.

Takes effect from its passage.

CHAPTER XL.—An Act to amend an Act entitled “An Act to ascertain the amount due the teachers of the Public Free Schools of this State, for services rendered as teachers prior to the first day of July, eighteen hundred and seventy-three; and to provide for the payment of the same,” approved April 27, 1874.

Section 1. Be it enacted by the Legislature of the State of Texas, That Section five of an Act entitled “An Act to ascertain the amount due the teachers of the Public Free Schools of this State, for services rendered prior to the first day of July, 1873, and to provide for the payment of the same,” approved April 27, 1874, be, and the same is amended so as to read as follows:

“Sec. 5. That in counties, in which, from any cause, the Treasurer of the School Board, or the County Treasurer, has failed to make the statements required by the fourth section of this Act, or where said statements, if made, are incorrect or defective, the holders of vouchers and claims for pay due teachers of Public Free Schools prior to the first day of July, 1873, may present said claims and vouchers to the County Commissioners’ Court of the county in which the services were performed, and establish to the satisfaction of said Commissioners’ Court the fact that said claims or voucher is justly due and unpaid; and said Court shall enter upon its minutes an order, stating that said claim is genuine and justly due said claimant, and upon presentation of said voucher or claim, approved or proven as is prescribed in the third section of this Act, accompanied by the order of said Commissioners’ Court establishing the same, the Comptroller shall draw his warrant for the amount of said voucher or claim, as is provided in the second section of this Act; and all warrants issued under the provisions of this section shall draw interest at the rate of eight per cent. per annum, from the first day of January, 1875.”

Sec. 2. That in view of the fact that there are many teachers who have long been deprived of their just dues by failure of the Treasurers of the School Boards to make their reports, an emergency exists that requires, and it is hereby declared, that this act take effect from and after its passage.

Approved July 6, 1876.

Takes effect ninety days after adjournment.

CHAPTER XLI.—An Act to fix the times of holding the District Courts of the Eighteenth Judicial District of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the District Courts of the Eighteenth Judicial District of the State shall be holden at the times hereinafter specified, to-wit: In Brazoria county, on the third Monday in April and October of each year, and may continue in session three weeks. In Matagorda county, on the third Monday after the third Monday in April and October, and may continue in session two weeks. In Jackson county, on the fifth Monday after the third Monday in April and October, and may continue in session two weeks. In Wharton county, on the seventh Monday after the third Monday in April and October, and may continue in session

three weeks. In Fort Bend county, on the tenth Monday after the third Monday in April and October, and may continue in session three weeks. In Waller county, on the thirteenth Monday after the third Monday in April and October, and may continue in session until the business is disposed of.

Sec. 2. All writs and process returnable to any of the District Courts of the Eighteenth Judicial District, shall be returnable after the taking effect of this act, to the terms of said courts as herein defined, and shall be as valid as if returned to the terms of said courts as they existed before the passage of this act.

Sec. 3. In order to meet the convenience of the people of the Eighteenth Judicial District in effecting the change of terms of courts made by this act, it is necessary, and is so enacted, that this act take effect and be in force on and after the tenth day of August next.

Approved July 6, 1876.

Takes effect from August 10, 1876.

CHAPTER XLII.—An Act to provide for the payment of the bonds of the State of Texas, that will become due, and that are retireable in the years 1876 and 1877, and to make adequate provisions for the floating indebtedness of the State, and to supply deficiencies in the revenue by the sale of the bonds of the State, and to make an appropriation to carry into effect the provisions of the same.

Whereas, Portions of the bonded debt of the State of Texas will become due in the years 1876 and 1877, and it is a case of imperative necessity and emergency that the same shall be provided for and paid at maturity, and at the same time that adequate provisions should be made for the floating indebtedness of the State, therefore, four-fifths of each House concurring by yeas and nays in the suspension of the rules requiring this act to be read on three several days therein, and two-thirds of all the members elected to each House concurring by yeas and nays in enacting that this act shall take effect from its passage, all of which is duly entered upon the journals:

Section 1. Be it enacted by the Legislature of the State of Texas, That this act shall take effect from and after its passage.

Sec. 2. That the Governor of the State is hereby authorized to have engraved the bonds of the State of Texas, of the denomination of one thousand dollars each, to the amount of eight hundred thousand dollars (\$800,000), and also to have prepared, either in manuscript or from engraved plates, bonds of such denomination as the interest of the State and the parties purchasing may require, to the extent of eight hundred and seventy-five thousand dollars, to be known as registered bonds.

Sec. 3. That said bonds shall be payable thirty years from the first day of July, A. D. 1876, to bearer, in gold coin of the United States, and shall bear interest at the rate of six per cent. per annum, payable semi-annually in gold coin of the United States, to-wit: on the first day of January and the first day of July of each year, and have coupons attached for each installment of interest which may become due, except the registered bonds herein provided for, which may be prepared without coupons. The principal and interest of the eight hundred

one thousand dollar coupon bonds shall be payable in the city of New York, through such agent or agents as the Governor of the State may select; but no agent shall receive more than one-fourth of one per cent. for paying said bonds or interest under this act; but the principal and interest of the registered bonds shall be payable in the city of Austin, at the office of the State Treasurer.

Sec. 4. That said bonds shall be signed by the Governor and Treasurer of the State of Texas, and countersigned and registered by the Comptroller, with the seal of the State thereto affixed.

Sec. 5. The Comptroller of Public Accounts shall sell the bonds provided for in this act, at such times and places, and in such amounts, as the Governor may direct; provided, the same shall not be sold for less than one hundred cents on the dollar, and shall cause the net proceeds arising from such sales to be deposited in the State Treasury.

Sec. 6. And it shall be the duty of the Governor to report to the Legislature the amount of bonds sold, to whom sold, the amount realized therefrom, the name of the agent or agents through whom sold, and the commission, if any, allowed the agent or agents on such sale.

Sec. 7. That the proceeds arising from the sales of bonds sold under the provisions of this act, shall be applied exclusively to the following purposes, using the money first realized to the payment of the debts now due, and so on to the other debts according to the respective dates at which they severally mature and are retireable, excepting that the two hundred and seventy-nine thousand dollars (\$279,000), maturing July 1, 1876, are to be first provided for: First, for the redemption and payment of "revenue deficiency (ten per cent.) bonds," issued under act of May 19, 1871, maturing July 1, 1876, two hundred and seventy-nine thousand dollars, (\$279,000); second, for the redemption and payment of the balance outstanding of (six per cent.) "bonds for funding State debt," issued under act of November 9, 1866, maturing January 1, 1877, one hundred and twenty-five thousand dollars, (\$125,000); third, for the redemption and retiring of the balance of outstanding (ten per cent.) "bonds for funding State warrants," issued under act of May 30, 1873, retireable at the option of the Government at any time three years after the date of issue: provided, the Governor deem it advisable to retire the same, four thousand four hundred dollars, (\$4,400); fourth, for the redemption and retiring of (ten per cent.) "bonds for funding State warrants," issued under act of May 2, 1874, retireable at the option of the Government at any time after July 1, 1877; provided, the Governor deem it advisable to retire the same, four hundred and ninety-nine thousand dollars, (\$499,000); fifth, for the payment of "outstanding warrants on general revenue," forty-two thousand seven hundred and twenty-one dollars and twenty-nine cents, (\$42,721.29), or as much thereof as may be necessary; sixth, for the payment of outstanding warrants on "school fund" account, and for claims yet to be audited, with interest due thereon, four hundred thousand dollars, (\$400,000), or as much thereof as may be necessary; seventh, for the payment of "approved certificates of debt," outstanding, with interest thereon until paid, sixty thousand dollars, (\$60,000), or as much thereof as may be necessary; eighth, for the payment of "interest due the Agricultural and Mechanical College fund," to February 1, 1876, forty-five thousand two hundred and eighty dollars, (\$45,280); ninth, for the payment of outstanding (ten per cent.) interest Treasury warrants, issued prior to the 28th day of January, 1861, and for eight per cent.

bonds that should have been issued therefor, twenty thousand dollars, (\$20,000), or as much thereof as may be necessary; tenth, "to supply casual deficiencies of revenue" for the support of the State Government (if necessary), as provided for by Section 49, Article III, State Constitution, two hundred thousand dollars, (\$200,000). Total, one million six hundred and seventy-five thousand four hundred and one dollars and twenty-nine cents, (\$1,675,401.29). After the payment of the several classes of indebtedness enumerated, the balance, if any, shall be used for the retirement of the bonded indebtedness of the State in the same manner as the sinking fund is provided for by section nine of this act.

Sec. 8. That the Treasurer of the State be and is hereby authorized and required immediately after the payment of the last preceding semi-annual installment of interest, to reserve and set apart out of the first money received in the Treasury, whether from taxes collected for the support of the government, or from a special interest tax, an amount of funds sufficient to pay the next succeeding semi-annual installment of interest, which may become due upon the bonds sold under the provisions of this act; and in the same manner he shall provide for the first semi-annual installment of interest due after the sale of any of the bonds sold under the provisions of this act, and also reserve and set apart from either of the same sources an amount sufficient to create a sinking fund of two per centum per annum for the ultimate redemption of the principal of the bonds so sold.

Sec. 9. That whenever there is an amount of ten thousand dollars or more in the Treasury of the State to the credit of the sinking fund, it shall be the duty of the Treasurer of the State to give thirty days' notice in some daily newspaper of general circulation, published in the city of New York, and in one published at the Capital of the State, that he will receive sealed proposals for the purchase from the lowest bidder, of such amount of the bonds provided for in this act as the sinking fund in the Treasury shall enable him to purchase. The sealed proposals herein provided for shall be opened by the Treasurer in the presence of the Governor and Comptroller, and the sinking fund may be applied to the redemption of the bonds offered at the lowest rate. The bonds so purchased, if any, shall be burned at once, in the presence of the Governor, Comptroller and Treasurer of the State, who shall together sign a certificate certifying to the destruction of said bonds, in accordance with the requirements of this section, setting forth the numbers, dates and amount of each of said bonds so destroyed; said certificate shall be filed in the office of the Comptroller of Public Accounts.

Sec. 10. The State of Texas hereby pledges her faith for the payment of the principal and interest of the bonds authorized by this act to be issued. All the provisions of section eight of this act shall forever be irrevocable until the principal and interest of the bonds provided for in this act shall have been fully paid and satisfied.

Sec. 11. That the Treasurer of the State is hereby required to give notice in a newspaper of general circulation, published in the city of New York, and in a newspaper published in the State Capital, for at least thirty days prior to the maturity and the time fixed for the retiring of such bonds as are by law retireable, and are contemplated to be redeemed and retired by this act, that the same will be redeemed and retired by such agent or agents of the State as the Governor may ap-

point at the city of New York, for such bonds as are made redeemable there; and for those bonds made redeemable at the State Treasury, or where no place of redemption is specially named, that such bonds will be redeemed at the State Treasury; and all bonds not presented at the time specified in said notices, interest thereon shall cease. The bonds so redeemed and retired shall be destroyed in the same manner as bonds redeemed through the sinking fund, as provided by section nine of this act.

Sec. 12. Should the legal holder of any of the claims against the State for the payment of which this act provides, desire to take the bonds authorized to be issued by this act in payment or exchange for such claims, he may be permitted to do so; provided, he will allow the current market value of said bonds, should that be more than par; but in no instance shall said bonds be paid in redemption of any class of debt for whose payment this act provides for less than one hundred cents on the dollar, except herein otherwise provided. When parties holding claims for fractional amounts, so as to be unable to purchase one entire bond or more, such parties shall have the privilege to pay the difference in money, so as to purchase one or more bonds, as the case may be; provided, application for such purchase or exchange shall be made to the State Treasurer within sixty days after the passage of this act.

Sec. 13. That the sum of two thousand dollars, or so much of the same as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated to pay the expenses of engraving and printing the bonds provided for by this act.

Approved July 6, 1876.

Takes effect from its passage.

CHAPTER XLIII.—An Act to transfer and re-appropriate the unexpended balance remaining on hand of the appropriation to pay Supreme Court Clerks' fees in felony cases, appropriated under act of March 15, 1875, to pay Clerks of the Appellate Court for fees in felony cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That the balance remaining on hand of the appropriation under act of March 15, 1875, to pay Supreme Court Clerks' fees in felony cases, be, and the same is hereby transferred to, and re-appropriated to pay Clerk fees of the Appellate Court in felony cases, for the fiscal year ending August 31, 1876.

Sec. 2. That, whereas, it is necessary to pay such fees as they become due, to enable said clerks to pay as they go, an emergency exists for the immediate passage of this act, it shall, therefore, take effect and be in force from and after its passage.

Approved July 8, 1876.

Takes effect from its passage.

CHAPTER XLIV.—An Act fixing the times for holding the District Courts in the Eighth Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas, That District Courts of the Eighth Judicial District shall be holden at the

times hereinafter specified, to-wit: In the county of Hunt, on the first Mondays in January and July, and may continue in session four weeks; in the county of Delta, on the fourth Mondays after the first Mondays in January and July, and may continue in session two weeks; in the county of Hopkins, on the sixth Mondays after the first Mondays in January and July, and may continue in session four weeks; in the county of Kaufman, on the tenth Mondays after the first Mondays in January and July, and may continue in session four weeks; in the county of Rockwall, on the fourteenth Mondays after the first Mondays in January and July, and may continue in session one week; in the county of Collin, on the fifteenth Mondays after the first Mondays in January and July, and may continue in session six weeks.

Sec. 2. That all process issued by or from said District Courts is hereby made returnable in conformity with the provisions of this act; and that all laws and parts of laws in conflict with this act, be, and the same are hereby repealed.

Sec. 3. There being an imperative public necessity for the immediate passage of this law, that the courts of said Judicial District may be held in conformity with the provisions of this act, to meet the demands and conveniences of the people of said District, that this act take effect and be in force from and after its passage.

Approved July 11, 1876.

Takes effect from its passage.

CHAPTER XLV.—An Act to amend section one of an act entitled “An Act to authorize the United States Bonds now in the Treasury to the credit of the permanent School Fund, to be disposed of and the proceeds thereof invested in State Bonds; likewise to invest in the same manner the funds now in the Treasury to the credit of said fund, or that may hereafter be received from all sources,” passed at the present session of the Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That section one of the above recited act be, and the same is hereby amended so as to read as follows: That the Board of Education (Governor, Comptroller and Secretary of State), themselves, or by their duly constituted attorney or attorneys, are hereby authorized and empowered to dispose of the United States bonds now in the Treasury issued to the State of Texas, and belonging to the permanent School Fund, or that may hereafter be received to the credit of the permanent School Fund, and invest the proceeds arising therefrom, in either the registered or coupon bonds issued by authority of this State; provided, it is the opinion of said Board that such investment will be advantageous to the interest of said School Fund; and the funds now in the Treasury to the credit of said permanent School Fund or that may hereafter be received from any source, may in like manner be invested in State bonds.

Sec. 2. It being to the advantage of the School Fund that the same should be invested so as to realize the largest rate of interest, an imperative emergency existing that this act should take effect from its passage, therefore, it is hereby declared that the same shall take effect and be in force from and after its passage.

Approved July 12, 1876.

Takes effect from its passage.

CHAPTER XLVI.—An Act to fix the salaries of Special Judges and to prescribe rules for paying the same, and to make appropriation therefor.

Section 1. Be it enacted by the Legislature of the State of Texas, That Special Judges, commissioned by the Governor of this State in obedience to the requirements of Section eleven, Article five, of the Constitution of 1870, and Section eleven, Article five, of the Constitution of 1876, shall receive the same pay as District Judges for every day they may have been heretofore necessarily occupied in going to and returning from the place where they may be required to hold court, as well as the time they are actually engaged in holding court.

Sec. 2. That the amount to be paid to such Special Judge shall be ascertained by dividing the salary allowed the regular Judge by three hundred and sixty-five, and then multiplying the quotient by the number of days actually served by the Special Judge.

Sec. 3. Upon the presentation of the account of such Special Judge, verified by his own affidavit, and certified by the regular Judge of the District or Clerk of the Court in which the services were performed, to the Comptroller of the State, showing the number of days that said Special Judge was necessarily occupied in going to and returning from the place or places where such special service was performed, and the number of days upon which such Special Judge presided under said appointment, and evidence that he was duly commissioned by the Governor; it shall be the duty of the Comptroller to draw his warrant upon the Treasurer of the State in favor of such Special Judge, for the amount found to be due him under the rules prescribed in this act.

Sec. 4. That warrants drawn by the Comptroller under this act, shall be paid by the Treasurer out of appropriations made for that purpose, and that the sum of ten thousand (\$10,000) dollars, or so much thereof, as may be necessary, be, and the same is hereby appropriated out of any money in the Treasury not otherwise appropriated for the payment of the same.

Sec. 5. Whereas, many persons have been appointed special judges, and have performed services as such, and for which services they have received no pay; and, whereas, their claims are now long past due; and, whereas, it is an emergency that their just claims should be promptly paid, therefore, this act take effect and be in force from and after its passage.

Approved July 12, 1876.

Takes effect from its passage.

CHAPTER XLVII.—An Act to amend an act entitled "An Act to provide for the supplying of lost records in the several counties in this State," approved April 14th, 1874.

Whereas, Great inconvenience now exists in many of the counties in this State on account of the loss and destruction of county records; whereas, said inconvenience is likely to continue for the lack of legal provisions for supplying such lost or destroyed records; and whereas, the present emergency demands that there be provided at as early a day as practicable, all expeditious method of supplying such lost or destroyed records, therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That an act entitled "An Act to provide for the supplying of lost records in the several counties in this State," approved April 14th, 1874, shall be and the same is hereby so amended as hereafter to read as follows, to-wit:

"Section 1. Be it enacted by the Legislature of the State of Texas, That all deeds, bonds, bills of sale, mortgages, deeds of trust, powers of attorney and conveyances of any and every description, which are required or permitted by law to be acknowledged or recorded, and which have been so acknowledged or recorded, and any and every judgment of a court of record in this State, and which record and minutes of court containing such judgment have been or may hereafter be lost, destroyed or carried away, may be supplied by parol proof of the contents thereof—which proof shall be taken in the manner hereinafter provided."

Sec. 2. Any person having any interest in any such deed, instrument in writing, or judgment, the record or entry of which has been or may hereafter be lost, destroyed or carried away, may, in addition to any mode now provided by law for establishing the existence of such record and the contents thereof, apply to the District Judge of the district in which such county, the records of which have been, or may hereafter be lost, destroyed or carried away, is situated, for a citation to the grantor in such deed, or to the party or parties interested in such instrument of writing, or to the party or parties who were interested adversely to the applicant at the time of the rendition of any such judgment, or who may be now interested, or the heirs and legal representatives of such parties, to appear at a term of the District Court to be designated in said citation, and contest the right of the applicant to have any such deed, instrument in writing, or judgment substituted and recorded; and service shall be as now provided, for process from the District Court; and on hearing said application, if the court shall be satisfied of the existence of such deed, instrument in writing, record or judgment, and of the loss, destruction, or carrying away of the same, as alleged by the applicant, and the contents thereof, an order shall be entered on the minutes of the District Court to that effect, which order shall contain a description of the lost deed, instrument in writing, judgment or record, and the contents thereof, and a certified copy of such order may be recorded in the records of the county, and shall stand in the place of and have the same force and effect as the original of said lost deed, instrument in writing, judgment or record; and when duly recorded, may be used in evidence in any of the courts of this State with like effect as the original thereof.

Sec. 3. All certified copies from the records of such county, the record of which has been or may hereafter be lost, destroyed, or carried away, and all certified copies from the records of the county or counties from which said county was created, may be recorded in such county; provided, the loss of the original shall first be established.

Sec. 4. That when any of the original papers mentioned in section one of this act may have been saved or preserved from loss, the record of said originals having been lost, destroyed, or carried away, the same may be recorded again, and this last registration shall have force and effect from the date of filing for original registration; provided, said originals are recorded within three years next after such loss, destruction, or removal of the records; and certified copies from any record authorized by the provisions of this act to be made, may be received in evidence in all the courts of this State, in the same manner and with like effect as

certified copies of the original record; provided, that when any judgment is substituted under and by virtue of this act, the time elapsing between the destruction and substitution of said judgment shall not affect any proceeding to a higher court, on appeal or writ of error; and said judgments, when so substituted, shall carry all the rights thereunder in every respect as the originals, especially preserving the liens from the date of the originals, and giving the parties the right to issue executions under the substituted judgments, as under the originals.

Sec. 5. Where any cause has been tried in any of the district courts of this State, and before the time has expired for taking the same to the Supreme Court by appeal or writ of error, as prescribed by law, and the principal records and papers in said cause have been destroyed by fire, or otherwise, either party may proceed to substitute a substantial record of said cause, which record shall contain a substantial statement of the pleadings, the exceptions to the rulings of the court, charge of the court, verdict of the jury, judgment of the court, and statement of facts, which record shall be agreed to by the parties or their attorneys, or in case the parties, or their attorneys, cannot agree, then the judge, before whom said cause was tried, shall make out such record, and certify that the same is a substantial record of the cause as tried before him, whereupon either party shall have the right to have said cause reviewed and determined by the Supreme Court, upon such substantial record, in the same manner as if the original record and papers had not been destroyed.

Sec. 6. In any case where judgment has been rendered in the District Court for the defendant, and notice has been given, or petition of error has been filed, or where suit has been brought, and before final judgment has been rendered, and the papers and records have been destroyed by fire or otherwise, without fault of plaintiff, the plaintiff shall have the right to bring a new suit, in which all the rights and equities of either party shall be determined *de novo*, and no law of limitation shall bar any of the rights and equities of either party that did not apply to the original suit; provided, that all suits in cases where the destruction occurred prior to the passage of this act, shall be brought within twelve months after the passage of this act, and in all other cases, the party shall file his suit within twelve months after the destruction of the papers; and in all cases of substitution of the record on appeal or writ of error, the substituted record shall be filed in the court that tried the cause within twelve months after the passage of this act, if said destruction occurred before the passage of this act; and in all other cases, within twelve months after the destruction of the papers and records.

Sec. 7. Whereas, an imperative public necessity exists for the immediate passage of this act, and an emergency that it go into effect at once, therefore, this act shall be in force from and after its passage.

Sec. 8. All laws and parts of laws in conflict with this act, be, and the same are hereby repealed.

Approved July 13. 1876.

Takes effect from its passage.

CHAPTER XLVIII.—An Act to provide for holding a term of the District Court of Wharton county in August, 1876, for the trial of criminal causes.

Section 1. Be it enacted by the Legislature of the State of Texas, That

there shall be held a term of the District Court within and for the county of Wharton, for the trial of criminal causes, to commence on the third Monday in August, A. D. 1876, and may continue in session two weeks, unless business is sooner disposed of.

Sec. 2. As an emergency exists, because of the number of prisoners charged with felonies, now in the county jail of said county awaiting trial, at a great cost and expense thereof to said county, which is largely in debt; therefore, this act shall take effect and be in force from and after its passage.

Approved July 14, 1876.

Takes effect from its passage.

CHAPTER XLIX.—An Act prescribing the times of holding the District Courts in the Twenty-first Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas, That the District Courts of the Twenty-first Judicial District shall be holden as follows: In the county of Montgomery on the first Monday in February and September, and may continue in session four weeks. In the county of Harris on the last Monday in March and October, and may continue in session until the business is disposed of.

Approved July 14, 1876.

Takes effect ninety days after adjournment.

CHAPTER L.—An Act to provide for the transfer of business, civil and criminal, pending in the District Courts over which jurisdiction is given by the Constitution to the Justices' Courts, to the several Justices' Courts of this State.

Section 1. Be it enacted by the Legislature of the State of Texas, That all causes, civil and criminal, now pending in the District Courts of this State, over which jurisdiction is given by the Constitution to courts of Justices of the Peace, be transferred to the Justices' Courts of the respective counties in the manner hereinafter prescribed.

Sec. 2. That immediately after this act shall take effect, the several District Courts of this State, or the judges thereof, in vacation, if any of such courts be not in session, shall, by an order entered of record in the minutes of such courts in each case, transfer all cases mentioned in the first section of this act pending in said courts to the Justices' Court of the precinct in which the county seats of the respective counties are situated; and the clerks of the several District Courts shall immediately make out a certified copy of the orders of the District Court in each of said causes, and file the same, together with all the original papers of the causes, and a certificate of the costs which have accrued, with the Justice to whose court the causes are transferred, as herein provided; and the several courts to which such causes are transferred shall have power to issue all process necessary to carry out the jurisdiction of such courts.

Sec. 3. Should there be two Justices' Courts in any one of the precincts above mentioned, said cases shall be equally divided between the justices of such precinct, unless the parties or their attorneys shall

otherwise agree; said agreement to be in writing, signed by the parties thereto, and filed.

Sec. 4. All cases which have been taken up by appeal from the Courts of Justices of the Peace, whose jurisdiction were increased by special law, when the amount in controversy was more than five hundred dollars (\$500) or less than twenty dollars (\$20) shall remain for trial in the District Court.

Sec. 5. Whereas, a great public necessity exists for the immediate transfer of such business, it is hereby declared to be a case of emergency, and that this act take effect and be in force from and after its passage.

Approved July 19, 1876.

Takes effect from its passage.

CHAPTER LI.—An Act to create the Twenty-Seventh Judicial District of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the counties of Collin and Grayson be and they are hereby created a Judicial District, to be designated and known as the Twenty-Seventh Judicial District.

Sec. 2. It shall be the duty of the Governor within ten days after the adjournment of the present session of the Legislature to issue his proclamation ordering the election of a Judge for said Twenty-Seventh Judicial District, who shall hold his office until the next general election for District Judges.

Sec. 3. That the District Court of said Twenty-Seventh District shall have the same jurisdiction and powers as is conferred by law upon the Districts Courts of this State.

Sec. 4. The District Courts of the Twenty-Seventh Judicial District shall be held at the times hereinafter specified, to-wit: In the county of Collin on the first Mondays in January and June, and may continue in session eight weeks. In the county of Grayson on the second Mondays in March and September, and may continue in session until the business is disposed of.

Approved July 19, 1876.

Takes effect ninety days after adjournment.

CHAPTER LII.—An Act to provide for the change of venue in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That all causes pending in the District Courts of this State wherein a change of venue has been taken as provided by law, by reason of the disqualification of the Judge to try and determine said causes, and said disqualification no longer exists, shall be removed to the county where the suit was originally instituted, upon the sworn application of the plaintiff or defendant, made to the District Judge of the county in which said causes are pending; five day's notice of the application being given to the opposite party.

Sec. 2. There being an existing imperative necessity and emergency for the immediate passage of this bill, that the cases herein provided for may be at once transferred to the courts having jurisdiction of the same, that this act take effect and be in force from and after its passage.

Approved July 19, 1876.

Takes effect from its passage.

CHAPTER LIII.—An Act to provide for refunding money paid into the State Treasury in certain cases.

Whereas, Under the provisions of an act to provide for the sale of the alternate sections of land, as surveyed by railroad companies and set apart for the benefit of the common school fund, approved April 24th, 1874, many citizens of the State of Texas have settled upon lands which they erroneously supposed to be portions of said alternate sections of land set apart for common school purposes; and, whereas, said citizens have by reason of said error paid into the State Treasury a part of the purchase money for said lands, when in truth, and in fact, said lands so paid on by them were not a part of the lands set apart for said common school fund; and, whereas, there exists no legal remedy for these parties who have so paid, as aforesaid, and they having received no consideration for said payments so made; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That any person or persons who may have heretofore purchased any land of the State supposed to have been set apart for the benefit of the school fund, and who cannot obtain a patent or title to the same, because the land designated by said purchaser, and for which the settler has paid the money into the Treasury, was not a part of the school fund of the State, shall have the right to recover the money so paid in the following manner: Said party, or his heirs or assigns, shall present to the Comptroller of Public Accounts the certificate given him by the County Surveyor in pursuance of the requirements of Section 7, of "An Act to provide for the sale of the alternate sections of land surveyed by railroad companies, and set apart for the benefit of the common school fund," approved April 24th, 1874, and a certificate from the Commissioner of the General Land Office, stating that the land designated in said surveyor's certificate is not and was not at the time of the purchase a part of the said school fund; and also the receipt of the Treasurer showing the amount paid on said lands, and satisfactory evidence of the identity of the party in whose favor the claim is made; whereupon the Comptroller shall issue his warrant upon the State Treasury for the amount of money paid in by the purchaser.

Sec. 2. That since a majority of the persons above named are poor and unable to do without the use of their money thus erroneously paid into the State Treasury, there exists a sufficient emergency that this act take effect and be in force from and after its passage.

Approved July 19, 1876.

Takes effect from its passage.

CHAPTER LIV.—An Act to authorize the refunding of moneys paid into the General Land Office, under the provisions of "An Act to authorize the location, sale and settlement of the Mississippi and Pacific Railroad reserve," passed August 26, 1856; and the provisions of a supplemental act, entitled "An Act supplemental to an Act to authorize the location, sale and settlement of the Mississippi and Pacific Railroad reserve," approved November 28, 1857, in all cases where in the State failed to patent the lands for which such moneys were paid.

Section 1. Be it enacted by the Legislature of the State of Texas, That all moneys paid into the General Land Office under the provisions of the supplemental act above recited, approved November 28, 1857, for lands in the Mississippi and Pacific Railroad reserve, to which the State

failed to issue a patent to the parties making such payment, shall be refunded to such party or parties, upon application, as hereinafter provided.

Sec. 2. It shall be the duty of the Commissioner of the General Land Office, upon application to him, made by any party or parties claiming to have made payments under the said supplemental act of November 28, 1857, and failed to receive patents to the land for which such payment was made, to investigate such claim, and when it shall appear that such claim is just, and that the money paid into the office of Commissioner of the General Land Office has not been refunded to the party or parties making such payment, and that the State of Texas is therefore justly indebted to the party or parties making such payments, he, the Commissioner of the General Land Office, shall issue to the party making application, or his legal representatives, an official certificate, showing the amount of money so paid and date of payment.

Sec. 3. Upon presentation to the Comptroller of Public Accounts of such certificate from the Commissioner of the General Land Office, properly authenticated, it shall be his duty to draw his warrant upon the State Treasurer, in favor of the party holding such certificate, for the whole amount originally paid into the General Land Office, as shown by the certificate of the Commissioner thereof, with interest thereon at the rate of eight per cent. per annum from the date of the original payment into the Land Office to the date of the said warrant on the State Treasurer. The sum of two hundred dollars, or so much thereof as may be required, is hereby appropriated out of any money in the Treasury not otherwise appropriated, to carry out the provisions of this act.

Sec. 4. In order that immediate relief may be granted under the provisions of this act in cases of extreme destitution and want, this act shall take effect from and after its passage.

Approved July 19, 1876.

Takes effect from its passage.

CHAPTER LV.—An Act to organize Commissioners' Courts, and to define their jurisdiction and duties, and provide for vacancies therein.

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be organized in each county in this State an inferior court, to be styled "The Commissioners' Court," which shall be composed of the County Judge and four County Commissioners.

Sec. 2. The County Judge shall be the presiding officer of said court, and shall be elected at each general election held for State and county officers, and shall hold his office for two years, or until his successor shall be appointed or elected and qualified.

Sec. 3. In each Commissioner's precinct there shall be elected at each general election, one County Commissioner, who shall hold his office for two years, or until his successor is qualified.

Sec. 4. The said courts shall have power, and it shall be their duty: 1st. To lay off their respective counties into precincts, not less than four nor more than eight, for the election of Justices of the Peace and Constables, and shall fix the times and places of holding the various Justices' Courts in their counties, and to establish places in such precincts where elections shall be held. 2nd. To establish public ferries whenever the public interest may require. 3rd. To lay out and establish, change and discontinue public roads and highways. 4th. To

build bridges. 5th. To apportion hands and appoint road overseers. 6th. To exercise general control and superintend over all roads, ferries, highways and bridges in their counties. 7th. To provide court-houses, jails, and all necessary public buildings. 8th. To allow and settle all county accounts and direct their payment. 9th. To provide for the support of paupers, and such idiots and lunatics as cannot be admitted into the Lunatic Asylum, residents of their county, who are unable to support themselves. 10th. To provide for the burial of paupers. 11th. And said courts shall have and exercise such other powers and jurisdiction as is now or may be hereafter prescribed by the Constitution and laws of this State.

Sec. 5. The said courts shall have power to levy and collect a tax for county purposes, upon all subjects of taxation in their respective counties on which a tax may be levied by the State, but shall not levy more than one-half of the State tax in their respective counties for any one year for county purposes, except for the payment of debts already incurred, and for the erection and repair of public buildings, under such limitations and with such restrictions as may be prescribed by law and the Constitution of this State; provided, that no tax levied for the purpose of paying debts incurred prior to the eighteenth day of April, A. D. 1876, shall exceed two and a half mills on the dollar; and no tax levied for the erection of public buildings shall exceed two and a half mills on the dollar for any one year.

Sec. 6. That said courts shall examine and adjust the accounts and books of the County Treasurer, and shall, quarterly, make up and cause a detailed statement of receipts, expenditures and debts of their respective counties to be posted up in some conspicuous place in the office of the County Clerk; provided, that said court shall, at the end of each year, make out a statement for the year of the receipts, expenditures and debts of their respective counties, and cause the same to be published in some newspaper printed in the county, if there be one; and if not, then to be posted in said Clerk's office as aforesaid, and at three other public places in the county.

Sec. 7. Each Commissioners' Court of this State shall have a seal, whereon shall be engraved a star with five points, the words "Commissioners' Court, _____ county, Texas," (the blank to be filled with the name of the county), which seal shall be kept in the County Clerk's office, and shall be used in the authentication of all official acts of said court, or of the Clerk of said court, or of the presiding officer, in all cases where a seal may be necessary for the authentication of any of said acts.

Sec. 8. The several County Clerks of the respective counties of this State shall be ex-officio Clerks of the several Commissioners' Courts; and it shall be their duty to attend upon each term of the said courts; to preserve and keep in their possession all books, papers, records and effects belonging to said courts; to issue all notices, writs and process necessary for the proper execution of the powers and duties imposed upon such courts; and shall perform all such duties as may be prescribed by law; provided, that the duties herein provided for shall be performed by the District Clerks in those counties where no County Clerks have been elected, or where, by law, a single Clerk performs the duties of both District and County Clerk.

Sec. 9. Each County Commissioners' Court shall have full power and authority to issue all such notices, citations, writs and process as may

be necessary for the proper execution of the powers and duties imposed upon such courts, and to enforce its jurisdiction; and all notices, citations, writs and process issued by said courts shall be dated and signed by the Clerk, and when not otherwise directed by law, shall be executed at least five days before the return day thereof, which shall be specified in the same; provided, however, that subpoenas for witnesses, whenever necessary, may be executed and returned forthwith; and all such notices, citations and writs, other than subpoenas for witnesses, shall have the seal of such court impressed thereon, and may be directed to any lawful officer of the State, whose duty it shall be to execute and return the same.

Sec. 10. The Commissioners' Court shall have like power to punish contempts as the District and County Courts have, or may have, by law; provided, that said punishment shall be by fine or imprisonment, and in no case by fine exceeding twenty-five dollars, or by imprisonment beyond twenty-four hours; and in case of fine, the party to be held in custody until said fine be paid.

Sec. 11. The Commissioners' Court shall cause to be procured and kept in the Clerk's office suitable books, in which shall be recorded the proceedings of each term of the Court, which record shall be read over and signed by the County Judge, or the member of the Court presiding, at the end of each term, and attested by the Clerk. The Clerks shall also record all the proceedings of said Courts authorized to take place in the vacation between the terms; and such records so made in vacation shall be read over and signed on the first day of the proper court next after such proceeding took place.

Sec. 12. Any three members of the Commissioners' Court, including the County Judge, shall constitute a quorum; provided, however, that no county tax shall be levied unless at some one of the regular terms, and when a full court is present.

Sec. 13. The regular terms of the Commissioners' Courts shall commence and be held at the court-house of their respective counties of this State, on the second Monday in February, May, August and November in every year, and may continue in session one week. Special terms of said courts may be called by the County Judge, or any three of the Commissioners, and may continue in session until the business is disposed of; provided, that at the called session of said courts the said Commissioners shall not receive pay for more than four days' service; and provided, the members of said Commissioners' Courts shall not receive pay for more than one called session for any one month.

Sec. 14. The County Judges and County Commissioners shall each receive the sum of three dollars per day for every day that they may be necessarily engaged in attendance on any regular term of said court, and the same amount for any special term, except as prescribed in the preceding section, to be paid out of the county treasury, upon the order of said court.

Sec. 15. All books, records, papers and effects belonging to the State Police Courts of the different counties of this State shall be transferred to the Commissioners' Courts established by this act; and the said Commissioners' Courts shall have and exercise all the powers conferred by law on County Courts as heretofore existing, which are not herein enumerated, and which are not in conflict with the provisions of this act.

Sec. 16. Neither the County Judges nor any of the Commissioners shall enter upon the duties of their offices until they shall have first

taken the oath of office prescribed by the Constitution, and shall also take an oath that they will not be directly or indirectly interested in any contract with a claim against the county in which they reside, except such warrants as may issue to them as fees of office, before some officer authorized to administer oaths; which oaths, together with the certificate of the officer who administered the same, shall be filed and recorded in the County Clerk's office, in a book to be provided for that purpose.

Sec. 17. In all cases where by law it shall be the duty of the Commissioners' Court to approve the bond of any of the officers of their several counties, it shall be their duty, whenever they shall become satisfied that said bonds, from any cause, are insufficient, to require new bonds or additional security to be given, as the case may require; and said court shall cause the officer whose bond is complained of to be cited to appear at a term of their court, not less than five days after service of said citation; and if any citizen shall be dissatisfied with the action of the Court approving the bond of any officer, or if any citizen or officer shall be dissatisfied with the action of the Court in the matter of requiring a new bond or additional security, as herein provided, an appeal may be made from the decision of said Commissioners' Court to the District Judge of the county, whose decision shall be final; and when said appeal is taken by a citizen, written notice shall be served upon the officer interested within ten days after the order of the court on said bond.

Sec. 18. In cases of vacancy, other than County Judge, in any of said Commissioners' Courts, from any cause, it shall be the duty of the District Judge in which such county is situated, upon satisfactory information of such vacancy, to appoint some suitable person living in the precinct where such vacancy occurs, to serve as Commissioner for said precinct until the next general election.

Sec. 19. As public policy demands immediate organization of Commissioners' Courts in this State, and as these courts have now no rules of law defining their duties and powers; therefore, an imperative public necessity exists for the immediate passage of this act, and the same shall take effect and be in force from and after its passage.

Sec. 20. That whenever a vacancy occurs in any Justice's precinct for Justice of the Peace or Constable, or when it becomes necessary to create a new precinct, in either case it shall be the duty of the County Commissioners' Court to fill the same by appointment until the next general election.

Sec. 21. In case there is a regular established public hospital in the county, it shall be the duty of the County Commissioners to provide for the indigent sick in their county by sending such sick persons to a hospital; and when more than one public hospital exists in the county, indigent patients shall have the right to enter any such institution which such indigent patient may select.

Sec. 22. That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

Approved July 22, 1876.

Takes effect from its passage.

CHAPTER LVI.—An Act to suppress lawlessness and crime in certain parts of the State, and to make an appropriation therefor.

Whereas, In several counties in the Western part of the State the people are being depredated on, in person and property, by bands of criminal and lawless men too strong to be suppressed by the civil authorities unaided, and by bandits and robbers from Mexico; therefore, for the purpose of maintaining law and order, and giving security to that section against foreign invasion and domestic disturbance, and, for that purpose, to aid the civil authorities.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor is hereby authorized and required to immediately organize a company of fifty men, rank and file, to-wit: Forty-two privates, four sergeants, and four corporals; and, in addition thereto, there shall be one captain, one first lieutenant, and one second lieutenant; and, in the aggregate, said company shall consist of fifty-three men, noncommissioned officers, and privates.

Sec. 2. That said company shall be mustered into the service of the State of Texas for the period of six calendar months, or longer should the Governor deem it necessary, in such manner as the Adjutant General may designate. Each officer, non-commissioned officer, and private thereof, shall furnish his own horse, saddle, bridle, rope, clothing, etc., for the entire term of service, and replace any or all of said articles, should it become necessary so to do.

Sec. 3. That the State of Texas shall furnish said company with arms, ammunition, camp and garrison equipage, and rations of subsistence for the men, and forage for the horses, and with transportation necessary to move said supplies. The arms shall be issued and charged to the men, and, in case any of said arms shall be lost through neglect or by disobedience of orders, the value thereof shall be charged upon the rolls as a stoppage against the party losing the same; but in no case, shall arms lost in the discharge of duty be so charged.

Sec. 4. The members of said company shall be allowed the following pay, to-wit: The captain one hundred and sixty-six dollars per month; the first lieutenant, one hundred and thirty-three dollars per month; the second lieutenant, one hundred and twenty-five dollars per month; the sergeants, fifty dollars each per month; the corporals, forty dollars each per month; and the privates, forty dollars each per month. The payments shall be made at such times and in such manner as the Adjutant General of the State may prescribe.

Sec. 5. That said company shall be governed by the rules and regulations of the army of the United States and the articles of war, as far as the same may be applicable, and by such orders, rules and regulations as may be prescribed from time, to time by the Governor and the Adjutant General of this State.

Sec. 6. That the officers, non-commissioned officers, and privates of said company shall be clothed with the powers of peace officers, and shall aid the civil authorities in the execution of the laws. They shall have authority to make arrests, and, in such cases, they shall be governed by laws regulating and defining the powers and the duties of Sheriffs when in discharge of similar duties. They shall, before entering upon the discharge of these duties, take an oath before some authority legally authorized to administer the same, that each of them will faithfully perform his duties in accordance with law. In order to arrest and bring

to justice men who have banded together for the purpose of committing robbery or other felonies, and to prevent the execution of the laws, the officers, non-commissioned officers, and privates of said company, may accept the services of such citizens as shall volunteer to aid them; but while so engaged, such citizens shall not receive pay from the State for their services.

Sec. 7. When said company, or any member or members thereof, shall arrest any person or persons charged with the commission of a criminal offense or offenses, they shall convey said person or persons to the county or counties where he or they stand charged with the commission of an offense, and shall deliver him or them to the proper officer, taking his receipt therefor; and all necessary expenses thus incurred shall be paid by the State.

Sec. 8. That the sum of forty thousand dollars, or so much thereof as may be necessary, be, and the same is hereby appropriated out of any moneys in the Treasury not otherwise appropriated, to carry out the objects of this act.

Sec. 9. That the fact of the existence of bands of lawless men in counties of this State, of their having prevented the execution of the laws, and placed the good people in various counties in continual fear of the commission of outrages upon their persons and property, constitutes a public necessity and emergency that this act take effect and it is hereby declared that the same go into effect and be in force from and after its passage.

Approved July 22, 1876.

Takes effect from its passage.

CHAPTER LVII.—An Act supplementary to an Act entitled “An Act making an appropriation of forty thousand dollars to complete and finish the State Agricultural and Mechanical College,” approved June 24, 1876.

Section 1. Be it enacted by the Legislature of the State of Texas, That the amount of forty thousand dollars appropriated by the above named act, to which this is a supplement, be and the same is hereby placed subject to the control of the Board of Directors of the Agricultural and Mechanical College of Texas; and the Comptroller is hereby authorized to draw his warrant or warrants on the Treasurer against said appropriation, on the order of the Board, signed by the presiding officer thereof.

Sec. 2. Whereas, the buildings of the Agricultural and Mechanical College are in an unfinished condition, and it being necessary to have said buildings completed by the first of October next, therefore an emergency exists that this act shall take effect from and after its passage, and the same is hereby declared to take effect from and after its passage.

Approved July 28, 1876.

Takes effect from its passage.

CHAPTER LVIII.—An Act to provide for settlements with Comptroller of Public Accounts, by Sheriffs and other persons entrusted with the collection of taxes.

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever any Sheriff or other person entrusted with the collection of State and County taxes in any county in the State has had, prior to

the passage of this act, the tax receipts and stubs destroyed by an overflow, he shall file with the Comptroller of Public Accounts his own affidavit stating that he has paid to the Comptroller, and to the County Treasurer of said county, all the money which he has collected for the State and county respectively, after deducting his legal commission for said collection; that all the tax receipts and stubs entrusted to him, and all other receipts, papers, books &c., connected therewith have been destroyed by overflow, giving the time and place, when and where said overflow occurred; and that the destruction of said receipts, stubs, papers, books, &c., was not occasioned by his neglect, procurement or consent, but was wholly accidental and could not have been prevented by any act on his part; and said Sheriff or other person entrusted as aforesaid with the collection of taxes, shall also file with the Comptroller the affidavits of two credible citizens of the county in which said destruction took place, setting forth the time and place, when and where said overflow occurred, and that they verily believe that said tax receipts and stubs were destroyed by said overflow, giving the reasons upon which they base their belief.

Sec. 2. That the Comptroller of Public Accounts, upon the filing in his office of the affidavits provided for in the foregoing section, and of the certificate of the Treasurer of said county, stating that the books of said Treasurer show that said Sheriff or other person entrusted as aforesaid with the collection of taxes, has paid to the County Treasurer of said county the amount which he claims to have paid said county, is authorized and hereby required to deliver to such Sheriff or other person entrusted with the collection of taxes, a full and complete release for the uncollected balance of State and county taxes the receipts and stubs for which were destroyed by said overflow.

Approved July 28, 1876.

Takes effect ninety days after adjournment.

CHAPTER LIX.—An Act to provide for the publication of certain decisions of the Court of Appeals.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Court of Appeals be and is hereby authorized and required to appoint one or more Reporters of its decisions in criminal cases, and of such other of its decisions as may be required by law to be published. Such Reporters shall be subject to removal by said court, for any inefficiency or neglect of duty.

Sec. 2. It shall be the duty of the Reporter to prepare for publication, under the direction of said court, the said decisions thereof, and to cause the same to be printed and published with promptness, as fast as there shall be a sufficient number to form a volume; and to deliver to the Secretary of State, for the use of the State, four hundred copies of each volume of said reports.

Sec. 3. Each volume shall contain an average number of pages of the volumes of Texas Reports heretofore published, and each page shall contain the number of lines, and each line the same number of "ems" as are contained in each page of Moore and Walker's Reports, heretofore published. They shall be styled the Court of Appeals Reports, and shall be so styled on the title page and back thereof, and the numbers of the volumes shall be continued on consecutively. The

name of the Reporter may be printed on the back, as on the volumes published by Moore and Walker.

Sec. 4. In payment for the four hundred copies of each volume, delivered as aforesaid, the said Reporter shall be entitled to receive the following compensation, viz: the sum of three dollars (\$3.00) per page for as many pages as shall be contained in one copy of each volume so delivered; provided, that if the Reporter charge the profession over five dollars (\$5.00) per volume, he shall be removed from office by the said court.

Sec. 5. As soon as the opinions are recorded, the originals, together with the records and papers in each case to be reported, shall be delivered to the Reporter by the Clerks of said Court, who shall take the Reporter's receipt for the same; but the Reporter shall return to said Clerks the said opinions, records and papers, when he shall have finished using them.

Sec. 6. When the Reporter shall have delivered to the Secretary of State the copies of a volume of said reports, as required by this act, the Comptroller of Public Accounts shall draw his warrant on the State Treasurer for the amount of compensation due to such Reporter, based upon the certificate of the Secretary of State that the Reporter has delivered to him four hundred copies of ——— volumes of such reports, containing ——— pages, printed, published and bound, in accordance with the provisions of this act.

Sec. 7. That this act take effect from [and] after ninety days after the adjournment of this session of the Legislature.

Approved July 28, 1876.

Takes effect ninety days after adjournment.

CHAPTER LX.—An Act to provide for revising, digesting and publishing the laws, civil and criminal, of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor shall by, and with the advice and consent of the Senate, if in session, appoint a commission of five persons learned in the law, to make a complete revision and digest of the laws of the State of Texas, and embody the same in a bill, which shall be by the commission reported to the Governor, and by him laid before the next session of the Legislature, and said commission shall revise all the general statutes of the State in force, up to the time they shall make their report, and report to the Legislature which of said statutes in their opinion ought, and which ought not to remain in force, and shall suggest such omissions and contradictions as they shall find in said statutes, and the mode in which they can be reconciled, supplied or amended; and they shall arrange under appropriate chapters and sections all the different acts and part of acts relating to the same subject matter which they shall deem ought to be continued or adopted, with such marginal and foot notes and explanations as they may deem essential to a clear understanding of the same; and shall execute and complete the revision in all respects in such a manner as in their opinion will render the general statutes most concise, plain and intelligible; and shall embody the result of their labors in two bills, one containing the entire body of civil statutes, and the other the entire body of the statutes relating to criminal law, both properly indexed.

Sec. 2. And it shall be the duty of the Governor, upon the receipt of

said reports so made by said commission, to cause five hundred copies of the same to be printed at the expense of the State, in the same manner and under the same rules and regulations as are prescribed by law for other public printing, which said copies shall be filed, when printed, in the office of the Secretary of State for the use of the next Legislature.

Sec. 3. The commissioners herein provided for shall receive as compensation the same salary as District Judges, for the time they are necessarily engaged in the performance of their work, and the certificate of the Governor shall authorize the Comptroller, at stated times, to draw his warrant on the Treasurer for their payment.

Sec. 4. That the speedy revision and digesting of the statutes of the State being an imperative public necessity, and required by the State Constitution, and an emergency existing because of glaring defects in our laws, therefore this act shall take effect and be in force from and after its passage.

Approved July 28, 1876.

Takes effect from its passage.

CHAPTER LXI.—An Act to provide for the detection and conviction of all forgers of land titles.

Section 1. Be it enacted by the Legislature of the State of Texas, That every person who falsely makes, alters, forges or counterfeits, or causes or procures to be falsely made, altered, forged or counterfeited, or in any way aids, assists, advises or encourages, the false making, altering, forging or counterfeiting, any certificate, field notes, returns, survey, map, plat, report, order, decree, record, patent, deed, power of attorney, transfer, assignment, release, conveyance or title paper or acknowledgment, or proof for record, or certificate of record, belonging or pertaining to any instrument or paper, or any seal, official or private, stamp, scrawl, mark, date, signature, or any paper, or any evidence of any right, title or claim of any character, or any instrument in writing, document, paper, memorandum, or file of any character whatever, in relation to or affecting lands, or any interest in lands, in this State, with the intent to make money or other valuable thing thereby, or with the intent to set up a claim or title, or aid or assist any one else in setting up a claim or title to lands, or any interest in lands, or to prosecute or defend a suit, or aid or assist any one else in prosecuting or defending a suit with respect to lands, or to cast a cloud upon the title, or in any way injure, obtain the advantage of, or prejudice the rights or interests of the true owners of lands, or with any fraudulent intent whatever, shall be deemed guilty of forgery, and be punishable by imprisonment in the State Penitentiary, at hard labor, not less than two, nor more than ten years.

Sec. 2. Every person who knowingly utters, publishes, passes, or uses, or who in any way aids, assists in or advises the uttering, publishing, passing, or using, as true and genuine, any false, forged, altered, or counterfeited certificate, field notes, returns, survey, map, plat, report, order, decree, record, patent, deed, power of attorney, transfer, assignment, release, conveyance, title papers, acknowledgment or proof for record, or certificate of record, belonging or pertaining to any instrument, or paper, or any evidence of any right, title or claim of any character whatever, or any instrument in writing, document, paper, memorandum, or file, or any official or private seal, or any scrawl, mark, date, or signature, in any way relating to, or having any connection with land,

or any interest in land in this State, with the intent mentioned in the preceding section, or with any other fraudulent intent whatever, shall be deemed guilty, and be punishable in like manner as provided in the preceding section. And the filing, or causing or directing to be filed, or causing or directing to be recorded in the General Land Office of the State, or in any office of record, or in any court in the State, or the sending through the mail, or by express, or in any other way for the purpose of filing, or record of any such false, altered, forged, or counterfeited matter, documents, conveyances, papers or things, knowing the same to be false, altered, forged or counterfeited, shall be an uttering, publishing and using, within the meaning of this section.

Sec. 3. Upon indictment under the preceding section, to warrant a conviction, it shall only be necessary to prove that the person charged took any one step, or did any one act or thing in the commission of the offense, if from such step, act or thing, any of the intentions hereinbefore mentioned, or any other fraudulent intention may be reasonably inferred; nor shall it be any defense to a prosecution, under this act, that the matter, act, deed, instrument or thing, was in law, either as to substance or form, void, or that the same was not in fact used for the purpose for which it was made, or designed; and it shall only be necessary, in any indictment under this act to state with reasonable certainty the act constituting the offense, and charge in connection therewith, in general terms, the intention to defraud, without naming the person or persons it was intended to defraud, and on trial of such indictment, it shall be sufficient, and shall not be deemed a variance if there appear to be an intent to defraud the United States, or any State, Territory, county, city, town, or village, or any body corporate, or any public officer in his official capacity, or any copartnership or member thereof, or any particular person.

Sec. 4. If any person authorized by law to take the proof or acknowledgment of any instrument, document or paper whatever, affecting or relating to the title to lands in this State, wilfully and falsely certify that such proof or acknowledgment was duly made, or if any person fraudulently affixes a fictitious or pretended signature, purporting to be that of an officer or any other person, though such person never was an officer, or never existed, he shall be deemed guilty of forgery, and punished as provided in section one.

Sec. 5. Persons out of the State may commit, and be liable to indictment and conviction for committing, any of the offenses hereinbefore enumerated, which do not in their commission necessarily require a personal presence in this State, the object of this act being to reach and punish all persons offending against its provisions, whether within or without the State, and indictments under this act may be presented by the grand jury of Travis county, in this State, or in the county where the offense was committed, or in the county where the land lies, about which the offenses in this act were committed.

Sec. 6. The following rewards shall be paid to the person informing or prosecuting in the cases hereinbefore mentioned, viz. one hundred dollars for each person convicted and sentenced for either of the aforesaid offenses; and these rewards shall be paid out of the Treasury of the State, by warrant of the Comptroller, granted on the certificate of the judge who tried the case; and where there are two or more informers and prosecutors for the same offense, the reward shall be divided between them equally, or in such proportions as said judge determines.

Sec. 7. Whereas, the present evils and mischief which it is the design of this act to check are of a character so serious as to create an emergency and an imperative public necessity for this act to take effect and go into force at once, it is therefore enacted that this act go into force and take effect from and after its passage.

Approved July 28, 1876.

Takes effect from its passage.

CHAPTER LXII.—An Act to validate certificates of acknowledgement of married women to deeds of conveyance, letters of attorney, and other written instruments.

Section 1. Be it enacted by the Legislature of the State of Texas, That any certificate of acknowledgment of any married woman to any deed of conveyance, letter of attorney or other written instrument, purporting to convey, or to confer on others the power to convey her separate estate, or her interest in the homestead, heretofore taken by any Chief Justice, District Clerk, Notary Public, or other officer, authorized by the laws of this State to take such acknowledgment, whenever such certificate of acknowledgment is invalid, because the same is wanting in any word, or words, necessary to be contained in such certificate of acknowledgment, by the requirements of the statutes in such cases made and provided, shall nevertheless be as valid and as binding on the person or persons making such written instrument as if such certificate of acknowledgment was in strict conformity to law; provided, that said certificate shall show on its face, that the married woman was examined by the officer taking the acknowledgment, separate and apart from her husband, and, having the same fully explained to her, she declared she had willingly signed the same, and that she wished not to retract it, or words to that effect; and provided further, that nothing contained in this act shall prevent the parties interested from setting up and pleading fraud.

Approved July 28, 1876.

Takes effect ninety days after adjournment.

CHAPTER LXIII.—An act to provide annual pensions for the surviving soldiers of the Texan Revolution, and the surviving signers of the Declaration of Texan Independence, and the surviving widows of such soldiers and signers.

Section 1. Be it enacted by the Legislature of the State of Texas, That to every surviving soldier or volunteer who served in the war between Texas and Mexico in the army of the Republic of Texas at any time between the commencement of the revolution at Gonzales in 1835 and the first day of January, 1837; and to every surviving signer of the Declaration of the Independence of Texas, made at the town of Washington, on the Brazos, on the second day of March, 1836; and to every surviving widow of any such soldier or signer who remains and has always been unmarried since the death of such soldier or signer, there shall be and is hereby granted an annual pension of one hundred and fifty dollars.

Sec. 2. No person shall be entitled to receive the pension herein provided for, unless he or she shall be in indigent circumstances, proof of which shall be made as herein required.

Sec. 3. Any person designing to make application for a pension

under the provisions of this act, shall file with the Clerk of the County Court a full statement of the facts which entitle him or her to receive the same, which statement shall be supported by the affidavit of the applicant and two other credible persons.

Sec. 4. When the County Clerk receives such an application, properly verified, he shall file the same and docket it on the trial docket of the County Court, and give a notice of the same having been made by posting on the court-house door of the county for at least thirty days prior to the beginning of a term of the County Court.

Sec. 5. The application shall be considered by the County Court in its regular order on the docket, and the State shall be represented by the District Attorney, or the County Attorney, or by some attorney appointed by the court.

Sec. 6. The Court may hear evidence both in support of and contradictory to the application, and shall give or withhold the certificate as the facts may warrant.

Sec. 7. If the Court is satisfied that the application states such facts as are required by this act to entitle the applicant to a pension, and that the facts so stated in the application are true, the Judge shall cause a certified copy of the application and the certificate of the court to the truth of the same to issue to the applicant.

Sec. 8. Any person making application for a pension as provided for in this act, who shall fail to establish his rights thereto, shall pay the following fees, to-wit: To the County Judge, three dollars; to the attorney representing the State, four dollars; to the County Clerk, two dollars; and to the Sheriff, one dollar.

Sec. 9. All applications are to be made under this act to the County Court of the county in this State where the applicant resides.

Sec. 10. Upon presentation of the certificate of the County Court, as herein provided for, to the Comptroller, by the applicant for a pension, or his attorney, it shall be the duty of the Comptroller to enter the name of the applicant upon the roll of pensions.

Sec. 11. It shall be the duty of the Comptroller, on the first day of January, the first day of April, and the first day of July and the first day of October, of each and every year, to draw his warrant, accompanied by the affidavit of two witnesses as to the identity of the pensioner, and the certificate of the County Judge and County Clerk under seal of the court, that the pensioner is still living, on the Treasury, in favor of each person on the roll of pensioners for the sum of thirty-seven dollars and fifty cents, and upon presentation of this warrant at the State Treasury, the Treasurer shall pay the same out of any funds which may be appropriated for that purpose.

Sec. 12. That the Comptroller of Public Accounts shall not issue his warrant in favor of any applicant for a pension under the provisions of this act, until he is satisfied that the applicant was in the service of the Republic of Texas, within the period of time specified in the Constitution, and he may be governed in his decisions by record or other credible and satisfactory evidence; and should the applicant have drawn a pension under the provisions of any former law, it may be taken by the Comptroller as proof in his or her case; but should he entertain doubts of the justness of the claim, he shall require further proof.

Sec. 13. Whenever the Comptroller may be credibly informed that any pensioner has died or become pecuniarily able to support himself or herself, then that officer shall strike the name of such person from

the roll of pensioners, and report to the Governor his reason for so doing.

Sec. 14. The pension granted under this act shall commence on the first day of July, 1876, and be paid in advance.

Sec. 15. No person who is not a resident of this State shall have the benefit of this act.

Sec. 16. The necessities of the old veterans creates such an emergency that this act shall take effect from and after its passage.

Approved July 28, 1876.

Takes effect from its passage.

CHAPTER LXIV.—An Act to regulate the laying out, opening and classifying and working of public roads in the State of Texas, and fixing penalties for a violation of certain sections therein named.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioners' Courts of the several counties of this State shall have full power, and it shall be their duty, to order the laying out and opening of public roads, when necessary, and to discontinue or alter any road whenever it shall be deemed expedient, as hereinafter prescribed; and it shall be their further duty to classify all roads running through their several counties, into first, second and third-class roads.

Sec. 2. First-class roads shall be clear of all obstructions, and not less than forty feet wide, with all stumps over six inches in diameter to be cut down to six inches of the surface, and rounded off; all stumps six inches and under in diameter to be cut smooth with the ground, all causeways laid out at least sixteen feet wide; provided, that Commissioners' Courts shall have power to order a first-class road in such places as may be necessary to be wider than forty feet and not to exceed sixty feet.

Sec. 3. Second-class roads shall be clear of all obstructions, and not less than thirty feet wide; stumps six inches and over in diameter to be cut down within six inches of the surface, and rounded off; and all stumps less than six inches in diameter to be cut smooth with the ground; all causeways to be laid out at least sixteen feet wide.

Sec. 4. Third-class roads shall be clear of all obstructions, and not less than twenty feet wide; stumps six inches and over in diameter, to be cut down to within six inches of the surface and rounded off; all stumps less than six inches in diameter to be cut down smooth with the ground, and all causeways laid out at least twelve feet wide.

Sec. 5. The Commissioners' Courts of the several counties shall lay off their respective counties into road precincts, and shall at their first regular meeting in each and every year appoint an overseer for each road precinct, and shall at the same time designate all the hands liable to work on public roads under the different overseers in their county; and in case any hand or hands liable to work on roads, shall not have been designated by said Court, the overseer shall have power to summons them to work on the nearest public road to which they may live, as if they had been designated by the Court; provided, fifteen days' residence in the county be necessary to require the performance of said road service at the time said service is required; but if from any cause the Court should fail or neglect to perform the duties required in this section at its first meeting in the year, it shall be competent and legal for it to make such appointment and designation at a called meeting, or

at any regular term; and in case a vacancy should occur in any road precinct by the death, removal or other inability of any overseer of the road in the county, it shall be the duty of the County Judge, immediately upon information of the same, to appoint an overseer to fill such vacancy, who shall be notified of his appointment as in other cases, and whose duty it shall be to serve until the first regular meeting of the Court in the next succeeding year.

Sec. 6. All public roads and highways that have heretofore been laid out and established agreeably to law, except such as have been discontinued, are hereby declared to be public roads, and the said Commissioners' Court shall in no instance grant an order on an application for any new road or to discontinue an original one, unless the persons making applications for the same or some one of them shall have given at least twenty days notice by advertisement of their intended application, posted up at the court-house door and two other public places in the vicinity of the route of the proposed new road, or the road proposed to be discontinued.

Sec. 7. All applications for a new road, and all applications to change or discontinue an original one, shall be by petition to Commissioners' Court, signed by at least eight freeholders of the road precinct or precincts in which said road is desired to be made, or discontinued, or changed; specifying in such petition the beginning and termination of such road proposed to be opened, changed, or discontinued.

Sec. 8. All roads hereafter ordered to be made shall be laid out by a jury of freeholders of the county, to be appointed by the Commissioners' Court; said jury shall consist of five persons, a majority of whom may proceed to lay out and mark the road so ordered, to the greatest advantage to the public, and as little prejudice to enclosures as may be, after taking the following oath before some person authorized to administer oaths, to-wit: "I, _____, do solemnly swear (or affirm) that I will lay out the road now directed to be laid out by the order to us directed from the Commissioners' Court, according to law, without favor or affection, malice or hatred, to the best of my skill, knowledge and ability. So help me God."

Sec. 9. No public road shall be surveyed or laid out upon or across any farm, lot or enclosure, without first obtaining the written consent of the owner or owners, his, her or their agent or attorney to the same, except as hereinafter provided.

Sec. 10. If such written consent should be refused, it shall be the duty of the Commissioners' Court to appoint five disinterested freeholders of the county as commissioners, a majority of whom may act, to view the same and assess the damages incidental to the opening of the road of the first, second or third class, through any part of said farm, lot or enclosure, as proposed; taking into consideration the advantages and disadvantages accruing to such person from the opening of such road, and report their action in writing, and under oath at the next regular term of the Commissioners' Court.

Sec. 11. If the owner or owners, his, her or their agent or attorney, of any enclosed land shall file in the Commissioners' Court a written protest against opening a road, viewed and marked out through the same, it shall be the duty of the Commissioners' Court to appoint five disinterested freehold citizens of the county as commissioners, a majority of whom may act, to review said road, assess the damages and report in manner and form as provided in the preceding section of this act.

Sec. 12. If in the judgment of the Commissioners' Court of the county, from the report of the commissioners aforesaid, the road should be deemed of sufficient importance, they may order the survey or opening of the same; provided, that said Commissioners' Court shall first order the payment of the damages assessed by said commissioners out of the County Treasury, and the County Treasurer shall have paid the same, or secured its payment by a special deposit in his office, of the amount, subject to the order of the person to whom the same shall be due; provided, that notification of such deposit be given by mail or otherwise.

Sec. 13. If no objection be filed, upon the report of the jury of view, the Court shall proceed to establish and classify such road, appoint an overseer, apportion hands and order the opening out of such road, as provided in the first, second, third and fourth sections of this act, as the case may be; and the overseer so appointed shall report his action upon the same at the first regular term of the Commissioners' Court in the next succeeding year, and he shall be liable to the fines imposed upon overseers of roads, for the non-performance of duty by the provisions of this act.

Sec. 14. It shall be the duty of the County Clerks of the various counties of this State to make out copies of all orders of appointments of juries of view and all overseers of roads in duplicate; and within ten days after such order of appointment shall have been made, he shall deliver such copies to the Sheriffs of their respective counties, endorsing on the back of the same the date of the issuance of the order; and all orders of appointments of overseers shall embrace the designation of hands liable to work under such overseer, embracing the boundaries of the precincts as laid off by the Court; and the Sheriff shall, within twenty days after the reception of the same, deliver to, or leave at the common residence of the overseer, or juror of view or review, a copy of the same, and make his return to the Clerk, endorsed on the duplicate the date of service; and the Clerks or Sheriffs failing to perform the duties herein required each shall forfeit and pay for every such failure the sum of ten dollars, which shall be recovered by judgment on motion of the District or County Attorney, in a court of competent jurisdiction of the county in which the defaulter may reside; and any juror, summoned as aforesaid to view or review a new road, or to change and establish roads, on his failure or refusal to perform the service herein required, shall forfeit and pay for every such failure, the sum of ten dollars, the same to be recovered by judgment, on motion of the District or County Attorney, in any court of competent jurisdiction of the county in which the defaulter may reside; said defaulter, in all cases, having three days' notice of said motion; provided, all reasonable excuses shall be heard and allowed; and provided further, that the said viewers or reviewers shall each be exempt from road duty as many days as they are engaged in performing the said services.

Sec. 15. All male persons between eighteen and forty-five years of age shall be liable, and it is hereby made their duty to work on, repair and clean out the public roads of this State, under such provisions and regulations as are hereinafter made, except ministers of the Gospel actually engaged in the discharge of their ministerial duties, and invalids, who shall be exempt.

Sec. 16. The overseers of the road shall have power to call out all persons liable to work on public roads, at any time, when it may appear necessary to work or repair the roads, or any part of them, in their

precinct; provided, that no one person shall be compelled to work on more than one road, nor more than ten days in each year; and provided further, that every overseer shall work through his precinct at least twice in each and every year.

Sec. 17. It shall be the duty of the overseer to give three days previous notice by summons in person, or in writing left at their respective places of abode, with some person of the family not less than ten years of age; if no person ten years old can be found at the place of abode, then he shall post said notice on the door of the place of abode of such person or persons so notified, and who is liable to work on the road in his precinct, which notice shall designate the time and place of working on the road. Each person liable to work on the road, when summoned to work by the overseer of the road shall take with him an axe, hoe, pick, or spade, or such tool as may be desired and directed by the overseer; provided, also, that the overseer shall have power to appoint some one to warn the hands to work on the roads, and such person shall be exempt from working on the road as many days as he was actually engaged in warning the hands.

Sec. 18. If any person liable to work on public roads, so summoned, shall fail to attend, or to send an able-bodied substitute to work in his place; or fail to pay the overseer the sum of one dollar per day for each day said person may have been notified to work on the road; or, when attending, shall fail or refuse to perform his duties as required by this act, and by the overseer, such person shall be deemed guilty of a misdemeanor; and upon conviction of such failure, refusal, or neglect, before any court of competent jurisdiction, shall be fined the sum of one dollar for each and every day he may so fail to attend or refuse to work, together with all costs of suit in either case; provided, all reasonable excuses shall be heard and allowed; and provided further, that a list of the defaulting road-workers, furnished by the overseer, shall be a sufficient showing to authorize any court of competent jurisdiction to issue writs against the parties liable; upon the return or trial day of which, whether the defaulter was summoned verbally or by writing to work on the road, and if by writing, the testimony of the person leaving the notice shall be necessary, upon which judgment shall be had; provided, the written report of the overseer, sworn to by him, and filed with the court trying the same, shall be prima facie evidence in all cases of refusals, failures or neglects, to work on the road, whether notified by writing or otherwise; and in no event shall the overseer be liable for costs, nor shall he be required to give bond in case he desires to take an appeal to a superior court.

Sec. 19. If any overseer of a road shall fail, refuse or neglect to report any person who shall fail to attend, or neglect or refuse to perform his duty when lawfully summoned to work on roads, said overseer shall forfeit and pay for every such neglect, failure or refusal, the sum of five dollars, to be recovered before any Justice of the Peace having jurisdiction, in the same manner as in an action of debt, upon the complaint of any person liable to work on said road; and the funds accruing from fines and forfeitures imposed by the provisions of this act, shall be used and applied to the improvement of the road in the road precinct in which the said defaulter resides.

Sec. 20. When, to the overseer of the roads, it may appear expedient to make causeways and build bridges, the timber most convenient may be used by paying the owner a fair compensation for said timber,

to be paid out of the County Treasury. The earth necessary for said causeways shall be taken from both sides so as to make a drain on each side of the causeways; and he shall erect bridges across all such water courses, and other places as may appear to him necessary and expedient; and should there be a water course that requires a bridge dividing any two road districts, the overseer of each district shall meet at the same time and place with their hands, and the overseer chosen by the majority present, shall superintend the building of such bridges until finished.

Sec. 21. When it may be necessary to use a wagon to haul material for any bridge, causeway, or other purpose, or any plow or scraper in repairing the roads, the overseer of such road is authorized to exchange the labor of any hand or hands bound to work on such road, for the use of a wagon or wagons, teams, scrapers and plows to be employed as aforesaid; also to exchange labor for the making of index boards and mile posts.

Sec. 22. It shall be the duty of all overseers of public roads to measure such parts of roads as fall within their respective precincts or districts, in continuation, and set up posts of good lasting timber at the end of each mile leading from the court-house, or some other noted place or town, and to mark on said posts in legible figures the distance in miles to said court-house or other noted place; and when a post so erected shall be removed by any means whatever, the overseer of the road shall cause the same to be replaced by another, marked as the original one. It shall also be the duty of overseers of roads to affix at the forks of all public roads in their respective districts or precincts index boards with directions pointing towards the most noted places to which they lead; and on failure to put up mile posts marked as aforesaid, or index boards, within six months after their appointment, the overseer of such roads, for such failure and neglect, shall be liable to indictment; and on conviction thereof before any court of competent jurisdiction, shall be fined in the sum of five dollars and all costs of prosecution.

Sec. 23. If any person subject to road duty shall refuse to serve as overseer on any road in his road district, agreeably to the order of the court in the county in which he resides, he shall be deemed guilty of a misdemeanor, and on conviction thereof before any court of competent jurisdiction, shall be fined in a sum not less than ten nor more than forty dollars; provided, all reasonable excuses shall be heard and allowed by the court trying the same. And it shall be the duty of every person appointed by the Commissioners' Court as an overseer of roads, who is lawfully exempt from road duty, to notify the Clerk of the Commissioners' Court of his non-acceptance within ten days after his being notified of his appointment; and on failure to do so, it shall be an acceptance of his appointment; and it shall, moreover, be the duty of the Clerk to insert on the commission the duties required of overseers, in respect to their non-acceptance. And if any person so appointed shall notify the Clerk of his lawful exemption from road duty, the Clerk shall forthwith report the same to the County Judge, who is authorized and required to appoint a successor to serve for the residue of the time; and such new overseer, so appointed, shall be subject to the same penalties and forfeitures as the overseer appointed by the Commissioners' Court; and a copy of the order of the appointment made by the Commissioners' Court and certified to by the Clerk of said court,

shall be sufficient evidence of the appointment of overseers in all cases of prosecutions under this act; provided, that no person shall be compelled to serve as an overseer more than one year in every three successive years, and shall not be required to serve on juries during the time he serves as overseer.

Sec. 24. If any overseer of a road shall fail, neglect or refuse to perform the duties as prescribed by this act; or if he should not keep the road, bridges and causeways, within his precinct, clear and in good order; or if he suffer them to remain uncleared and out of repair for twenty days at any one time, unless hindered by high water or other sufficient cause, to be judged of by the court, such overseers shall be deemed guilty of a misdemeanor, and on conviction thereof by any court of the county, of competent jurisdiction, he shall be fined not less than ten nor more than twenty-five dollars; said fines shall be paid into the County Treasury, as other fines and forfeitures, for the use of the road precinct under the control of such defaulting overseer.

Sec. 25. All fines recovered under the provisions of this act shall be paid over to the overseer of the road in the precinct where the penalty accrued, for which amount the overseer shall give his receipt, the money to be applied by him to the improvement and keeping in good repair of his road.

Sec. 26. Every person liable to work on roads, by calling on the overseer at any time before the day appointed to work on the roads, and paying to said overseer the amount for which he or they might be liable for failing or refusing to work on said road, taking said overseer's receipt for the same, shall be exempt from working for every such day paid for, and also exempt from any penalties for the same.

Sec. 27. The overseers of roads shall apply all moneys coming into their hands to the improvement of their roads, in an impartial manner; by hiring hands, and applying the work equally throughout his precinct; and should said overseer misapply, fail or refuse to apply, the money coming into his hands in manner as provided for in this section of this act, he shall, for such failure or refusal, be liable for double the amount so misapplied, to be recovered on motion as provided for in the nineteenth section of this act, and shall be precluded from holding any office in any county in this State until such moneys are fully accounted for; provided, all reasonable excuses shall be heard and allowed; and provided, further, that such moneys may be laid out by the overseer for repairing or building bridges in his precinct, as he may think best.

Sec. 28. It shall be the duty of all overseers of roads in the State to report in writing to the Commissioners' Court of their county, at its first regular session in each year, giving the number of hands and the names of the same in his precinct liable to work on roads, the number of days he has worked on his road, the condition the road is in, the amount of fines by him collected, all the funds received by him for his road and how and to whom the same were paid. And any overseer failing or refusing to make such report shall forfeit and pay five dollars for such failure or refusal, to be recovered on motion as provided for in the nineteenth section of this act, to be paid into the County Treasury for the use of the road where such penalty accrued, and shall pay over to said Court any money remaining in his hands.

Sec. 29. The County Clerks of the several counties of this State shall post up in their respective court-houses on the first day of each District Court held in his county, a list of the names and the precincts of all over-

seers of the roads in the county, and on neglect or failure to perform such duty, he shall forfeit and pay for each failure, ten dollars, to be recovered on motion made by the County or District Attorney in the District Court, and paid into the County Treasury.

Sec. 30. It shall be the duty of Judges of the District Courts of the several Judicial Districts in this State to give this act in charge to the Grand Jury, at the opening of every court held by them.

Sec. 31. In addition to being exempted from serving on juries during the term of their service, the overseers of roads shall receive as compensation for their services ten per cent. of all fines or moneys collected or received by them.

Sec. 32. And for the further, and better providing for public roads in this State, any lines between different persons or owners of land, may, upon the condition herein provided for, be declared public highways, and left open and free from any and all obstructions for ten feet on either side of said lines; provided, that the trees marked and other objects used to designate the lines and corners shall not be removed.

Sec. 33. That whenever ten free-holders shall make application under oath, which said oath shall be filed in the County Clerk's office and taken before some person authorized to administer oaths, stating that it is necessary for the lines designated in said application to be declared public highways in order to give them a nearer, better and more practicable road to their church, mill, wood or timber, or county-seat, and give five days' notice in writing of such application to all parties along the line of such proposed highway, the Commissioners' Court may in their discretion, should they deem the same of sufficient public importance, issue an order declaring the lines between the parties designated as above required to be public highways; and when such order is made, shall issue a notice to the individual owners of the land designated in said application, to be served by the Sheriff or any constable of the county in the same way as other notices are served, stating that said designated lines are declared public highways, and within one year from the date of the service of such notice, each owner or owners of such land shall cause the same to be left opened as indicated; provided, that the Commissioners' Court shall not be required to keep said roads worked by the road hands, as in the case with other roads in the county.

Sec. 34. Each and every person notified as provided above, who shall refuse or neglect to leave open the line or lines, as above indicated, shall be guilty of a misdemeanor, and on conviction thereof, before any court of competent jurisdiction, be fined in any sum not more than twenty dollars, together with all costs for each and every month he, she or they, fail, refuse or neglect to leave open the lines designated and provided for in this act.

Sec. 35. The owners or owner of the land whose lines have been or may be declared public highways, and also any person through whose land a third class road may run, shall have the right to erect a gate or gates across such road or roads, said gate or gates to be ten feet wide, and hung so that no person on horseback can open and shut it without alighting from his horse, and any person who shall leave said gates open shall be guilty of a misdemeanor, and on conviction thereof, shall be fined ten dollars for each offense, and shall also be responsible to the owner for any damage that may be incurred thereby, to be recovered in any court of competent jurisdiction.

Sec. 36. The amount of damages to be allowed to the owners of said

lands for opening of the lines as provided for in Sections 33 and 34 of this act, shall be assessed as is provided for in first, second and third class roads, in section ten of this act, to be paid by the parties making application for said road.

Sec. 37. That all laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 38. The immediate working of the public roads is an imperative public necessity, and creates an emergency; therefore, this act take effect and be in force from and after its passage.

Approved July 29, 1876.

Takes effect from its passage.

CHAPTER LXV.—An Act to amend an act entitled, "An Act regulating contested elections," approved May 8, 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That the second section of the above recited act, approved May 8, 1873, and entitled, "An Act regulating contested elections," shall be amended so as to read as follows, to-wit:

"Section 2. If the contest be for the validity of an election for any district or county office, a copy of the notices and any other papers served on the parties shall be filed with the Clerk of the District Court of the county in which the residence of the party holding the certificate of election is; and when so filed, the entry of the trial of said contest shall be made upon the docket of said court, the same as in other causes, and said contest shall be tried at the next term of said court, and under the rules governing proceedings in other causes, except that the questions of fact which may be at issue between the contesting parties shall be passed upon by the court without the intervention of a jury; and if on trial any vote or votes be found to be illegal or fraudulent, the court shall subtract such vote or votes from the poll of the candidate for whom cast, and after a full and fair investigation of the evidence shall decide to whom the office belongs; or should it appear that the election was illegally or fraudulently conducted; or that by the action or want of action on the part of the officers to whom were entrusted the control of such elections, such a number of legal voters were denied the privilege of voting as, had they been allowed to vote, might have materially changed the result; or if it appear that such irregularities existed as to render the true result impossible to be arrived at, or very doubtful of ascertaining, to order a new election as the facts and necessities may require; and the costs of the suit shall be taxed according to the laws governing costs in other causes; and such causes shall have the precedence over all other causes, both in the District Court and upon appeal in the Supreme Court; provided, that if more than sixty days will have elapsed from the return day after such election, before the first day of any regular term of the District Court in which any contested election is pending, then, and in that event, it shall be the duty of the Judge of said District Court to hear the cause in the chambers at as early a day, to be fixed by him, as may be practicable, and he shall direct the District Clerk to give to the contesting parties at least ten days' notice of the time of hearing such cause. And it shall be the duty of the officer in whose charge the custody of the several boxes containing the polls, tally lists and poll lists may be, at any time, upon application by either of the contesting parties in such causes, and

the filing of an affidavit, that both of the duplicate poll lists or tally lists required by law, were sealed up in any of such boxes, to open the same, after having given at least five days' notice to the opposite party, of the application, and of the time and place when and where he will open said box or boxes; and to take therefrom one of the poll or tally lists, and to hold the same, subject to the examination of either of the said contesting parties; after which he shall immediately close up the said box or boxes, and securely seal the same. Or should either of the said contesting parties file his application with an affidavit of his inability to otherwise procure for examination any duplicate poll or tally list used at such election, to open the box containing the other duplicate, and to take the same therefrom and hold it subject to the examination of said contesting parties, and to immediately thereafter seal up the said box securely; provided, that the notice to the opposite party, above provided for, shall in all such cases be given.

Sec. 2. Whenever notice of contest and the answer thereto shall have been filed in the office of the District Clerk, it shall be the duty of the contestee to file with the said District Clerk a bond, with two or more good and sufficient securities, to be approved by the said Clerk, in an amount to be determined by said Clerk, but not less than double the probable amount of fees to be realized from the office during the term being contested for, said bond to be conditioned, in the event of the decision of the contest herein provided for, against him and in favor of the contestant, that he will pay over the said contestant whatever sum may be adjudged against him by a court having jurisdiction of the subject matter of said bond. And if any such contestee shall fail or refuse to file such bond before the time fixed by law for entering upon the discharge of the duties of the office in dispute, then, and in that event, it shall be the duty of the said District Clerk to notify the said contestant of the said failure or refusal, who shall thereafter have ten days in which to file a like bond, conditioned, in the event of the determination of the said contest against him, and in favor of the said contestee, to pay over to the said contestee whatever sum may be adjudged against him by a court having jurisdiction of the subject matter of said bond. Immediately upon the filing of said bond, it shall be the further duty of said District Clerk to certify the failure or refusal of the contestee to file the said bond, to the Governor, and the filing of said bond by the contestant; whereupon it shall be the duty of the Governor to issue a commission to the said contestant for the time pending said contest; provided, that it shall be the duty of the Governor to issue the commission to the said contestee at the time regularly provided for by the general election laws of the State, unless he has in the meantime been notified of his said failure to file the said bond hereinbefore provided for, in which event he shall withhold the issuance of such commission until after the time herein allowed the contestant to file his said bond has elapsed; but if the said contestant shall fail to file his bond within the time herein provided for, it shall be the duty of the said District Clerk to certify all the facts in the case to the Governor, who shall proceed to issue the said commission to the said contestee; provided further, that if any person, at the date of the passage of this act, shall have already have entered upon the discharge of the duties of any office, his right to which is being contested in any District Court in this State, he shall be required to file the bond hereinbefore provided for, within twenty days from the said passage of this act, and in the event of his failure or

refusal to do so, it shall be the duty of the clerk of said court to give notice of such failure or refusal to the contestant, who shall thereafter be allowed ten days in which to file his bond, as hereinbefore provided for; and if he shall file said bond within the time above specified, it shall then be the duty of the said Clerk to certify all the facts in the case to the Governor, who thereupon shall annul the commission heretofore issued to the said contestant (contestee), who shall enter upon and discharge the duties of the office in dispute, pending the said contest. But if the said contestant shall fail or refuse to file his said bond, as herein provided for, then, and in that event, the said contestee shall remain in possession of said office, and shall continue to discharge its duties, pending the said contest.

Sec. 3. That all the provisions of this act shall apply to election contests, now pending, as well as to those hereafter to be commenced.

Sec. 4. That all acts or parts of acts, now in force, in conflict with any of the provisions of this act, be, and the same are hereby repealed.

Sec. 5. That whereas, in a large number of the counties of this State, under the constitutional ordinance fixing the times for holding the District Courts of this State, no regular terms of said Courts can be held for many months; and whereas, in many of said District Courts there are election contests now pending in regard to various offices in the State; and whereas, the public interests are being made to suffer by reason of said contests, and the uncertainty thereby engendered as to who are properly entitled to said offices; and whereas, under the said constitutional ordinance the determination of these said election contests must otherwise be necessarily greatly delayed; therefore, an emergency exists which makes it very necessary for the public welfare that this act shall go into immediate operation; therefore, be it further enacted by the Legislature of Texas that this act shall go into effect and be in full force from and after its passage.

Approved July 29, 1876.

Takes effect from its passage.

CHAPTER LXVI.—An Act prescribing the times of holding the District Courts in the Twelfth Judicial District, and to attach certain counties therein named for judicial purposes.

Section 1. Be it enacted by the Legislature of the State of Texas, That the District Courts of the Twelfth Judicial District be holden at the times hereinafter specified, to-wit; In the county of Coryelle on the first Monday in March and September, and may continue in session two weeks; in the county of Hamilton on the third Monday in March and September, and may continue in session one week; in the county of Comanche on the fourth Monday in March and September, and may continue in session one week; in the county of Brown on the fourth Monday after the first Monday in March and September, and may continue in session one week; in the county of Coleman on the fifth Monday after the first Monday in March and September, and may continue in session one week; in the county of Shackelford on the sixth Monday after the first Monday in March and September, and may continue in session one week; in the county of Stephens on the seventh Monday after the first Monday in March and September, and may continue in session one week; in the county of Young on the eighth Monday after the first Monday in March and September, and may continue in session

one week; in the county of Jack on the tenth Monday after the first Monday in March and September, and may continue in session one week; in the county of Palo Pinto on the eleventh Monday after the first Monday in March and September, and may continue in session one week; in the county of Hood on the twelfth Monday after the first Monday in March and September, and may continue in session one week; in the county of Somerville on the thirteenth Monday after the first Monday in March and September, and may continue in session one week; in the county of Erath on the fourteenth Monday after the first Monday in March and September, and may continue in session one week; in the county of Eastland on the fifteenth Monday after the first Monday in March and September, and may continue in session one week. For judicial purposes Reynolds shall be attached to Coleman; Callahan to Eastland, and that Throckmorton, Haskell and Jones be attached to Shackelford for judicial purposes.

Sec. 2. All writs of process issued previous to the passage of this act, shall be returnable at the terms specified in this act.

Sec. 3. There being a public necessity for a change in the times of holding the Courts in said district, and the condition of the district renders it necessary that this act take effect and be in force from and after the fifteenth day of August, 1876, and it is hereby so enacted.

Approved July 29, 1876.

Takes effect from August 15, 1876.

CHAPTER LXVII.—An Act to fix the times for holding the terms of the District Court of the Seventeenth Judicial District, including the county of McCulloch.

Section 1. Be it enacted by the Legislature of the State of Texas, That the terms of the District Court of the Seventeenth Judicial District shall be held at the times and places hereinafter specified, to-wit:

Sec. 2. In the county of McCulloch on the first Monday in March and September, and may continue in session one week.

Sec. 3. In the county of San Saba on the second Monday in March and September, and may continue in session two weeks.

Sec. 4. In the county of Lampasas on the third Monday after the first Monday in March and September, and may continue in session two weeks.

Sec. 5. In the county of Burnet on the fifth Monday after the first Monday in March and September, and may continue in session two weeks.

Sec. 6. In the county of Gillespie on the seventh Monday after the first Monday in March and September, and may continue in session one week.

Sec. 7. In the county of Kimble on the eighth Monday after the first Monday in March and September, and may continue in session one week.

Sec. 8. In the county of Menard on the ninth Monday after the first Monday in March and September, and may continue in session one week.

Sec. 9. In the county of Mason after the tenth Monday after the first Monday in March and September, and may continue in session two weeks.

Sec. 10. In the county of Llano on the twelfth Monday after the first

Monday in March and September, and may continue in session until the business is disposed of.

Sec. 11. That the county of Concho is hereby attached to the county of McCulloch for judicial purposes.

Sec. 12. That the Clerks of the District and County Courts of San Saba county be, and they are hereby authorized and required, to deliver to the Clerks of the District and County Courts of McCulloch county, all books, papers, records and other property in their possession belonging to said county of McCulloch. That the Clerks of the District and County Courts of Gillespie county be, and they are hereby authorized and required, to deliver to the Clerks of the District and County Courts of Kimble county, all books, papers, records and other property in their possession belonging to said county of Kimble.

Sec. 13. That as the present law works a great hardship to the people of this district, and places an unnecessary burthen upon the people of McCulloch county, now organized, an emergency exists for the immediate passage of this act, it shall therefore take effect, and be in force, from and after its passage.

Approved July 29, 1876.

Takes effect from and after its passage.

CHAPTER LXVIII.—An Act to transfer certain suits pending in the courts of the counties of this State, out of which new counties have been created, to the new counties so created.

Section 1. Be it enacted by the Legislature of the State of Texas, That in all cases where a civil suit may be now, or hereafter, pending in the District or County Court of any county of this State, out of the territory of which a new county has been, or may hereafter be made, in whole or in part, if the defendants, or any one of them, shall file a motion in the District or County Court, where such suit is or may hereafter be pending, to transfer the same to said new county, together with an affidavit stating that neither he nor any one of the defendants, should there be more than one defendant, in such suit, now resides in the territorial limits of the county where such suit is pending, and that neither he nor any one of the defendants resided in said territorial limits at the time of the institution of such suit; and shall further swear that, at the date of the filing of such suit, said defendant was a resident citizen within the territorial limits of the new county, stating the name of such new county; the court in which such suit is or may hereafter be pending, shall cause an order to be entered upon the minutes of the court, transferring the suit, together with all the papers on file belonging to or forming a part of said suit, to said new county; which suit shall be entered upon the docket of the court in the new county having jurisdiction of the same, and be tried in its order as other cases; provided, no such transfer shall be made, unless the party defendant shall first pay all costs incurred by the defendants in such suit; and provided, further, that nothing herein contained shall be construed to apply to suits concerning land, where the land in controversy is situated in the territorial limits of the old county, where the suit is now, or may be hereafter pending.

Sec. 2. As the new Constitution has changed the original jurisdiction of the several courts, created new courts, and abolished other courts; thereby making it necessary to the ends of justice that all laws upon the subject of transferring causes to the proper tribunal for trial and

disposal, should go into effect immediately, it is therefore enacted that this act take effect and be in force from and after its passage.

Approved July 29, 1876.

Takes effect from its passage.

CHAPTER LXIX.—An Act to amend section twenty-seven of "An Act authorizing the disposition and sale of the University lands," approved April 8, 1874, and to validate all sales of eighty acres to any one person.

Section 1. Be it enacted by the Legislature of the State of Texas, That section twenty-seven shall hereafter read as follows: "In case any of the said University lands are not sold and taken up by actual settlers, as provided for in the act, to which this is amendatory, any other person may purchase the same at not less than the minimum price fixed by the Commissioners, and upon the same terms as actual settlers, and upon the same conditions contained in section thirteen of said act; provided, that no person shall purchase more than one hundred and sixty acres, and not less than eighty acres; and provided further, that if under the provisions of this section any improved lands should be sold, the purchaser thereof shall pay for the enhanced value of said land by reason of improvements, in addition to the appraised value thereof, which enhanced value shall be assessed under oath by two disinterested freeholders of the county where situated, and by them at the cost of the purchaser to be reported to the Commissioner of the General Land Office, who shall add the same to the appraised value of said land under this act, and when other than a settler applies to purchase, his application shall be accompanied by his affidavit, stating that there is no actual settler on the land, and stating further whether it is improved or unimproved; provided, that all sales of University lands of not more than one hundred and sixty acres, and not less than eighty acres, made since the 8th day of April, 1874, if made in accordance with the provisions of this act, as now amended, shall be deemed as valid as if made after the passage of this act; provided further, that nothing herein contained shall be construed so as to validate any sale of land where more than one hundred and sixty acres were bought by any one person, nor where the purchaser has failed to settle upon the land in accordance with this act, and the act to which this is amendatory; and provided further, that should there be more than eighty acres of land in one body, the purchaser shall take the whole, not to exceed one hundred and eighty acres; provided further, that the provisions of this act shall extend to and include all University lands that have been sold and afterwards bought in by the State, or have in any manner reverted to and become property of the State."

Approved July 29, 1876.

Takes effect ninety days after adjournment.

CHAPTER LXX.—An Act prescribing the times of holding the District Courts in the Second Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas, That the District Courts of the Second Judicial District shall be holden at the times hereinafter specified, to-wit: In the county of Rusk, on the first Mondays in January and July, and may continue in session six weeks; in the County of Panola, on the sixth Monday after the first Mondays in January and July, and may continue in session four weeks; in the

county of Shelby, on the tenth Monday after the first Mondays in January and July, and may continue in session three weeks; in the county of Sabine, on the thirteenth Monday after the first Mondays in January and July, and may continue in session two weeks; in the county of Harrison, on the seventeenth Monday after the first Mondays in January and July, and may continue in session until the business is disposed of.

Sec. 2. That all writs of process, civil or criminal, heretofore issued by or from the courts in the counties of the second Judicial District, are hereby made returnable in conformity to the provisions of this act; provided, that nothing herein contained shall be so construed as to in any manner interfere with any term of the District Court in any county in said Judicial District that may be in session at the time this act goes into effect.

Approved July 31, 1876.

Takes effect ninety days after adjournment.

CHAPTER LXXI.—An Act to declare the time when the Sixteenth and succeeding Legislatures of the State of Texas shall assemble.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Sixteenth Legislature of this State shall assemble to hold its biennial session on the second Tuesday in January, A. D. one thousand eight hundred and seventy-nine, at 12 o'clock M., and the Legislature shall meet biennially thereafter on the same day until otherwise prescribed by law.

Sec. 2. There being a provision in the new Constitution authorizing this Legislature to pass laws making appropriations necessary to carry on the government until the assemblage of the Sixteenth Legislature, and as the present session of the Legislature is rapidly drawing to a close, an imperative public necessity exists for the immediate passage of this act, and the same shall take effect from and after its passage.

Sec. 3. All laws and parts of laws in conflict with this act be and the same are hereby repealed.

Approved July 31, 1876.

Takes effect from its passage.

CHAPTER LXXII.—An Act to define drunkenness in officers of the State, county and corporations, and prescribing punishments therefor.

Section 1. Be it enacted by the Legislature of the State of Texas, That drunkenness in any officer of this State, holding any office of honor, trust or profit, shall be and is hereby declared to be an offense against the laws of this State.

Sec. 2. Drunkenness under the provisions of this act shall consist in the immoderate use of any spirituous, vinous or malt liquors to such a degree as to incapacitate an officer from the discharge of the duties of his office, either temporarily or permanently.

Sec. 3. Any State or district officer who shall be guilty of violating section two of this act, shall be subject to removal from office in the manner provided by law.

Sec. 4. Any county or municipal officer who shall be guilty of drunkenness as herein provided, shall, for the first offense, upon trial and conviction before any court of competent jurisdiction, be fined in a sum of not less than five dollars nor more than fifty dollars; for the second offense, he shall be fined in the sum of not less than fifty nor more than

one hundred dollars; and for the third offense, he shall be removed from his office, and shall be thereafter incompetent to hold the same office for the period for which he may have been elected.

Approved July 31, 1876.

Takes effect ninety days after adjournment.

CHAPTER LXXIII.—An Act to provide for the election of a District Attorney in the first, twelfth, seventeenth, twentieth, twenty-third and twenty-fourth Judicial Districts of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That a District Attorney shall be elected in the first, twelfth, seventeenth, twentieth, twenty-third and twenty-fourth Judicial Districts of the State of Texas, who shall perform all the duties required of those officers by law.

Sec. 2. There shall be an election held in all the counties composing the first, twelfth, seventeenth, twentieth, twenty-third and twenty-fourth Judicial Districts within ninety days after the passage of this act for the purpose of electing said officers, and the Governor shall issue his proclamation, commanding the same to be held in accordance with existing laws.

Sec. 3. That the public welfare demands the election of a competent prosecuting officer in said Districts, and that there exists an imperative public necessity and emergency that this act take effect and be in force from and after its passage, and therefore it is so enacted.

Approved July 31, 1876.

Takes effect from its passage.

CHAPTER LXXIV.—An Act to amend an act entitled: "An Act supplementary to an act entitled: 'An Act to create the county of Ellis,' approved January 28, 1850."

Section 1. Be it enacted by the Legislature of the State of Texas, That the act entitled: "An Act supplementary to an act entitled: 'An Act to create the county of Ellis,' approved January 28, 1850," be amended so as to read as follows:

"Section 1. That the boundaries of Ellis county be as follows, to-wit: Beginning on the west bank of the Trinity river, at a point which, by the meanderings of said river, will be one mile northwardly from Robert H. Porter's house. Thence on a straight line to Chamber's creek, at a point opposite the mouth of Mill creek. Thence south sixty degrees; west to a point thirty-seven miles from the place of begi(n)ning. Thence north, thirty degrees; west, to the south-east corner of Johnson county. Thence north to a point directly west of the south-west corner of Dallas county. Thence east to the said south-west corner of Dallas county. Thence with the southern boundary line of said Dallas county to the Trinity river. Thence down said river, with the meanderings thereof, to the place of begi(n)ning."

Sec. 2. That the people living along the line proposed to be established by this act, are in doubt as to the county of their residence, said line not having been established, the same presenting difficulties in assessing and collecting the taxes, etc., along said line, and the Legislature being near its adjournment, therefore an imperative public necessity

for the immediate passage of said bill, and an emergency that the same take effect immediately both exist that this act take effect and be in force from and after its passage.

Approved July 31, 1876.

Takes effect from its passage.

CHAPTER LXXV.—An Act to provide for holding a special term of the District Court of Collin county, in November, 1876, for the trial of criminal causes.

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be held a term of the District Court within and for the county of Collin, for the trial of criminal causes, to commence on the first Monday in November, A. D. 1876, and continue in session until the business is disposed of.

Sec. 2. As an imperative public necessity exists because of the number of prisoners charged with felonies, now in the county jail of said county, waiting for trial at great cost and expense to said county, this act shall take effect and be in force from and after its passage.

Approved July 31, 1876.

Takes effect from its passage.

CHAPTER LXXVI.—An Act to regulate grand juries and juries in civil and criminal cases in the courts in the State.

Section 1. Be it enacted by the Legislature of the State of Texas, That no person shall be qualified to serve as juror on the trial of any cause, civil or criminal, unless he be a legal voter, a citizen of this State, a freeholder in this State, or householder in the county in which he may be called to serve; of sound mind and good moral character; provided, that an inability to read or write shall be a sufficient cause for challenge, without being charged to either party.

Sec. 2. All civil officers, undertakers, druggists, telegraph operators, attorneys and physicians in practice, millers engaged in grist, flouring and saw mills, persons over sixty years of age, ferry-men, railroad station agents, engineers, conductors and vice-presidents of railroad companies, when engaged in active discharge of duty, school-masters, publishers of newspapers and ministers of the Gospel in active discharge of their ministerial duties, and overseers of roads, are exempt from jury service, when claiming such exemption; provided, there shall also be exempted from jury service, in towns or cities having a population of fifteen hundred or more inhabitants, active members of organized fire companies, not exceeding twenty members for each one thousand inhabitants, of any incorporated town or city, as ascertained by the last United States census; provided further, that the members to be exempted shall be selected by their respective companies, and their names be handed to the clerks of the District and County Courts, before this exemption can be made available; and provided further, that if there be more than one organized fire company in any county, the whole number of exemptions under the provisions of this act, shall be divided equally between all the organized fire companies in such county.

Sec. 3. Every person is disqualified from serving as a juror in any cause, civil or criminal, pending in any court in this State, who may have been convicted of, or who may be under indictment for theft, or

any felony, or who does not possess the qualifications prescribed for jurors in this act.

Sec. 4. The District Judge shall at each term of the District Court, appoint three intelligent citizens as Jury Commissioners, possessing the qualifications prescribed in this act for jurors, resident in different portions of the county, and freeholders therein, and able to read and write, and who have no suit in the District Court of such county, which requires the intervention of a jury. The Judge shall cause the Sheriff to notify said Commissioners of their appointment as such, and the day upon which they are to appear before said Judge; and he shall administer to the Commissioners the following oath: "You do swear faithfully to discharge the duties required of you as Jury Commissioners; that you will not knowingly elect any man as jurymen whom you believe to be unfit and not qualified, that you will not make known to any one the name of any jurymen selected by you, and reported to the court; that you will not directly or indirectly converse with any one selected by you as a jurymen, concerning the merit of any case to be tried at the next term of this court, until after said cause may be tried or continued, or the jury be discharged.

Sec. 5. If any person appointed a Jury Commissioner shall fail or refuse to attend and perform the duties required, without a reasonable excuse, he shall forfeit and pay not less than twenty-five dollars nor more than one hundred dollars, nor shall the same person act as Jury Commissioner more than once in the same year, and any person acting as Jury Commissioner shall be exempt from jury service for one year thereafter.

Sec. 6. The Jury Commissioners, after they have been organized and sworn, shall retire to a jury room or some other apartment designated by the Judge; they shall be kept free from the intrusion of any person and shall not separate, without leave of the court, until they shall have completed the duties required of them. The Clerk shall furnish the Commissioners with the names of persons appearing from the records of the court to be exempt from serving on the petit jury at each term, and they shall also be furnished with the last assessment roll of the county.

Sec. 7. The Jury Commissioners shall select from the citizens of the different portions of the county, one hundred persons, or a less or greater number if so directed by the Judge, free from all legal exceptions, of good moral character, of sound judgment, well informed, and, so far as practicable, able to read and write, to serve as petit jurors at the next term of the District Court; they shall write the names of such persons on separate pieces of paper as near the same size and appearance as may be, and fold the same so that the name cannot be seen. The names of the persons so written and folded shall be deposited in a box, and after being well shaken and mixed, the Commissioners shall draw from said box the names one by one of thirty-six persons, more or less, as the Judge shall direct, for each week of the term of the court, and record the same as drawn upon as many sheets of paper as there are weeks of the term of the court, which shall be certified and signed by them, directed and delivered in open court to the Judge of the District Court in separate envelopes and endorsed, "the list of standing juries." The lists shall be sealed in separate envelopes and endorsed respectively, "jurors for the first, second and _____ weeks of the court," the blanks to be filled by the number corresponding

to the week of the court for which the jurors are chosen, and the Commissioners shall write their names upon the seals so that the contents cannot be seen without breaking the seals.

Sec. 8. The Judge shall deliver the lists to the Clerk or one of his deputies in open court, and administer to the Clerk and all his deputies the following oath: "You do swear that you will not open the jury lists now delivered to you, nor permit them to be opened, until the time prescribed by law; that you will not directly or indirectly converse with any one selected as a petit juror concerning any case pending and for trial in this court at the next term." Should the Clerk subsequently appoint a deputy, he shall administer to him the like oath.

Sec. 9. Within thirty days of the next term, and not before, the Clerk shall open the envelopes and make out a fair copy of the jury list for each week, and give the same to the Sheriff or his deputy, who shall, at least three days prior to the first day of the next term, summon the persons to attend on Monday of the week for which said persons were drawn as petit jurors, by giving personal notice to each juror, or by leaving written notice at the juror's place of residence, with a member of his family over sixteen years old; and in either event, the Sheriff shall name the day and week said juror is required to appear. The lists shall be returned by the Sheriff on the first day of the term, with a certificate thereon of the date and manner in which each juror was summoned, from each of which lists twenty-four persons shall be selected for the week named in the list, from those summoned, in the order in which their names appear thereon, who shall compose the regular panels of that week.

Sec. 10. A juror, legally summoned, failing to attend, without a reasonable excuse, may, by order of the court entered on the record, be fined in any sum not less than ten nor more than one hundred dollars.

Sec. 11. The court may discharge the regular panel of a jury after they shall have served one week; and any deficit in a panel shall be made up, when a selected jurymen is excused or fails from any cause to attend on the day specified in the summons, from the original list returned by the Jury Commissioners, in the order in which their names are recorded in said list.

Sec. 12. At the commencement of each term of the court at which jury causes may be tried, the Judge shall administer to the Sheriff and his deputies the following oath: "You do swear that, without favor or affection, or without purpose to favor or injure the rights of any litigant, or of the State, or of any defendant, you will summon jurors in and for this county; and that, to the best of your skill and judgment, you will select discreet, sensible, impartial men, when required to summon jurors not selected by the Jury Commissioners; and that you will not, directly or indirectly, communicate or converse with any jurymen touching the subject matter of any case pending for trial at the time; that you will not, by any means, attempt to influence, advise or control a jurymen in his opinion in any case under trial."

Sec. 13. If, for any cause, the Jury commissioners shall not be appointed, or shall fail to select jurors as herein provided, or the panel selected shall be set aside, or the jury lists returned into court shall be lost or destroyed, the court shall forthwith order proceedings in conformity with the provisions of this act to supply for the term a sufficient number of jurors; and, if necessary, appoint commissioners for that purpose.

Sec. 14. The Judge may, if he deem it expedient, make an order directing the Clerk to docket causes for the first day of the term, except appearance cases, in which there is a jury trial, and order the jury to be summoned to appear on that day; which order he may make and revoke at pleasure.

Sec. 15. Three Jury Commissioners, having the qualifications prescribed in this act for Jury Commissioners in the District Court, shall be appointed, summoned and sworn by each County Judge at the first term of the County Court held after the passage of this act, who shall, in accordance with the provisions prescribed for Jury Commissioners in the District Court, in this act, select jurors for all the terms of said court to be holden in the year 1876, and for the first term of said court to be holden in the year 1877, and the same proceedings shall be had in the County Court by the officers thereof and by said Commissioners, for procuring jurors and organizing petit juries for the trial of cases in the County Court, as are required by this act for similar proceedings in the District Courts; and the said County Judges shall, at the January and July terms of the County Courts, in the year 1877, and in every year thereafter, appoint, summon and swear three Jury Commissioners, who shall, in accordance with the provisions of this act, select jurors for all the terms of the County Courts to be holden within six months next after the adjournment of said January and July terms of said court; and the said County Judges may increase or reduce the whole number of jurors to be selected.

Sec. 16. The Clerk shall deliver to the Jury Commissioners, after their appointment, and before they enter on their duties, a list of those persons who have served for one week in any court of record of the county, within twelve months, if in the District Court, and within six months, if in the County Court, preceding, none of whom shall be selected by the Commissioners as jurors; provided, that the foregoing provisions of this section shall have no application to counties sparsely populated, if the Judge shall so direct; and the Commissioners shall also be furnished by the Clerk with a list of those under arrest, or on bail, against whom a criminal prosecution for theft or any felony is pending in the county; and also a list of all persons convicted of theft, or any felony known to the Clerk, none of whom shall be selected as jurymen.

Sec. 17. No jury shall be required in any civil case in the District or County Court, unless the party demanding a jury, if in the District Court, shall have deposited by nine o'clock a. m., of the day of the court set by the Judge for the trial of jury causes, a jury fee of five dollars if in the District Court, and three dollars if in the County Court; and all causes in which jury fees have been deposited shall be at once entered by the Clerk, in their regular order, on a "jury case trial docket;" said causes shall be tried or disposed of for the term in their regular order, except appearance cases, before those cases in which no jury has been demanded, and jury fee deposited; provided, that on the call for trial of a case in which a jury fee has been deposited, the party demanding a jury may waive it, in which event his jury fee deposit shall be refunded; but his case shall be tried in its order without a jury, as a jury trial docket case.

Sec. 18. Any party to a cause desiring a jury, who will, before nine o'clock a. m. of the day of the term set for the trial of jury cases, make oath before the Clerk that he has no money or property on which he

can procure the amount required for a jury fee, and that he has not and cannot procure the jury fee deposit, shall be entitled to have his case tried by a jury in the same manner as if the jury fee had been paid.

Sec. 19. No verdict shall be rendered in any cause in the District Court, whereby the rights of any citizen shall be affected, except upon the concurrence of all the jury (unless during the trial one or more jurors, not exceeding three, may die or be disabled from sitting; in which event the remainder of the jury shall have power to render the verdict); but when the verdict shall be rendered by less than the whole number, it shall be signed by every member of the jury concurring in it.

Sec. 20. On the day the jurors shall be summoned to attend court, the panel for that week shall be called, and the names of such as attend, and are not excused by the court, shall be entered of record as the jurors of that week, and the Judge shall order the Sheriff to summon a sufficient number of good and intelligent citizens, having the qualifications of jurors as prescribed in this act, to supply the deficiency, if any, in the panel.

Sec. 21. The Clerk shall write the names of all the jurors entered of record on separate slips of paper, as near the same size and appearance as may be, and when a jury is wanted for the trial of any case, the same shall be drawn from a box, after the slips of paper above mentioned shall have been deposited therein, and well mixed. The Clerk shall provide and keep for that purpose a suitable box with a sliding lid.

Sec. 22. In all cases of jury trial, the Clerk shall draw from the box the names of twenty-four jurors, if in the District Court, or so many as there may be, if there be a less number in the box; and the names of twelve jurors, if in the County Court, or so many as there may be, if there be a less number in the box, and write them as drawn on two slips of paper, and deliver one slip to each party, if in a civil case, or, if in a criminal case, one to the Prosecuting Attorney, and the other to the defendant or his attorney, from which the plaintiff and defendant, or the Prosecuting Attorney and defendant, if in a criminal case, may each strike a number of names equal to the number of peremptory challenges allowed them by law; and they shall return the list to the Clerk, who shall, if in the District Court, call the first twelve names not erased, and, if in the County Court, call the first six names not erased, and swear them as a jury to try the case. But before either party shall be required to strike, those on the list shall be challenged for cause, and others drawn and placed as drawn upon the list, in place of as many as may be set aside for cause. In all cases when the jury shall be completed, the names of all jurors constituting a panel, not on the jury, shall be returned to the box, from which another jury may be drawn; and when from any cause it may be necessary to make up a jury, if there be not enough of the standing jurors remaining, or in attendance, the court shall order for the occasion a sufficient number of other jurors, possessing all the qualifications prescribed for jurors in this act, to be summoned by the Sheriff, to make up the deficiency in said jury; provided, that in summoning said jurors to supply said deficiencies, it shall not be lawful for the Sheriff or any officer to summon as a juror any person found in the court-house, or court yard, if they can be had elsewhere.

Sec. 23. Whenever a special venire shall be ordered, the names of all the persons selected by the Jury Commissioners to do jury service for the term at which such venire is required, shall be placed upon tickets of

similar size and color of paper, and the tickets be placed in a box which shall be well shaken up; and from this box the Clerk, in the presence of the Judge in open court, shall draw the number of names required for said special venire, and the names of the persons so drawn shall be attached to the writ of special venire facias, and the persons named shall be summoned by the Sheriff, or other lawful officer, by virtue thereof; provided, that when the whole number of jurors selected by the Jury Commissioners for any term of the court shall be less than the number required upon said special venire, the Judge shall order the Sheriff to summon a sufficient number of good and intelligent citizens, having all the qualifications of jurors prescribed in this act to supply the deficiency; provided, that in supplying the deficiency, it shall not be lawful for the Sheriff or any other officer to summon as a juror any person found within the court-house or yard, if they can be had elsewhere.

Sec. 24. The court may adjourn the whole or any part of the jury to any day of the term, but jurors shall not be paid for the time they stand adjourned.

Sec. 25. If the challenge to the array shall be sustained, the court shall order the whole panel to be discharged, and a new one to be summoned from the qualified jurors of the county; or a special jury may be summoned to try the cause of the party challenging.

Sec. 26. The fact that a juror is a witness in the case; that he is directly or indirectly interested in the case; that he is related, within the third degree, by consanguinity or affinity, to either of the litigants or to the defendant in any criminal case; or that he does not possess the qualifications of a juror enumerated in this act; or that he has served as a juror for one week in the District Court within six months preceding, or in the County Court within three months preceding; or that he is biased or prejudiced in favor of or against either party, or in favor of or against the defendant in a criminal case; or that he is unable to read or write; or that he is related within the third degree by consanguinity or affinity to the person injured by the commission of the offence with which the defendant in a criminal case is charged, or to the private prosecutor, if there be one; or that he served on the grand jury which found the bill of indictment; or that from hearsay or otherwise there is established in the mind of the juror such a conclusion, as to guilt or innocence of the defendant, as will influence him in his action in finding the verdict; shall be a good cause for challenge; provided, that where the requisite number of jurors, able to read and write, cannot be found, then the inability of a juror to read and write shall not be a good cause for challenge; and provided further, that no juror shall be sworn as a witness, after being accepted by the parties, sworn and impaneled as a juror, unless, by consent of the parties, such juror shall be discharged and the case be tried by the remaining jurors.

Sec. 27. Six men shall compose a jury in the courts of Justices of the Peace, and in all inferior courts of this State; and all jurors in such courts shall possess all the qualifications, and may be challenged for the same causes prescribed in this act; and in jury trials in such courts each party shall be entitled to three peremptory challenges.

Sec. 28. That at each term of the District Court, the Jury Commissioners appointed at that term shall, at the same time and place at which they shall select petit jurors for the next term, also select from the citizens of the different portions of the county, sixteen persons, to be summoned as grand jurors for the next term of the District Court,

from whom the grand jury shall be formed, taking those who attend and are not excused by the court, as their names appear upon the list; and the deficiency, if any, shall be supplied under the direction of the court. The persons so selected as grand jurors shall possess all the qualifications required by law for grand jurors, and shall also possess all the qualifications prescribed in this act for petit jurors, and persons summoned to supply any deficiency, shall possess the same qualifications. The names of the persons selected as grand jurors by the Commissioners shall be written upon a piece of paper, and the fact that they were so selected shall be certified to and signed by the Jury Commissioners, who shall place said piece of paper so signed in an envelope, and seal the same and endorse thereon the words: "The list of grand jurors selected at — term of the District Court," (the blank to be filled by the proper designation of the court). The Commissioners shall write their names across the seal of said envelope and direct the same to the District Judge, and deliver it to him in open court, and the same proceedings shall be had by the Judge, Clerk and Sheriff, or other officer, as are prescribed in this act with reference to the list of petit jurors.

Sec. 29. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 30. Whereas, the jury laws now in force in this State are wholly inadequate to the public wants, thus creating an emergency; therefore, that this act take effect and be in force from and after its passage.

Approved August 1, 1876.

Takes effect from August 18, 1876.

CHAPTER LXXVII.—An Act making an appropriation for per diem pay of the members, officers and employees of the Fifteenth Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of thirty thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the Treasury not otherwise appropriated, for the per diem pay of the members, officers and employees of the Fifteenth Legislature of the State of Texas.

Sec. 2. That the certificate of the Secretary of the Senate, approved by the President thereof; or the certificate of the Chief Clerk of the House, approved by the Speaker thereof, shall be sufficient evidence to the Comptroller, upon which he shall audit the claims and issue his warrants upon the Treasurer for the respective amounts.

Sec. 3. That an imperative public necessity exists for the passage of this law in order that the members, officers and employees may receive their per diem to enable them to perform their duties to the State, that this act take effect and be in force from and after its passage.

Approved August 2, 1876.

Takes effect from its passage.

CHAPTER LXXVIII.—An Act to provide for transcribing county records in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be the duty of the County Commissioners' Court of any county in this State, when the records or indexes thereof of any county have

become or may become defaced, worn, or in any condition endangering their preservation in a safe and legible form, to procure a good and well bound book or books, as the case may be, and require the County Clerk to transcribe, or have transcribed by a sworn deputy, the records contained in such book or books, in a plain, legible hand, and with some standard ink of a permanent black color; and when so transcribed, they shall be carefully compared with the original record, by the said Clerk or sworn deputy so transcribing the same, assisted by some other sworn deputy.

Sec. 2. Be it further enacted, That when said record or records shall have been found to be truly and correctly transcribed, the County Clerk, with the sworn deputies so transcribing and verifying the same, shall certify under their official oath of office, at the conclusion of the record, with the impress of the seal of said court affixed on the same page, to the correctness of the same, reciting the number of pages contained in said book, from one to the highest number; after which, said transcribed record or records shall have all the force and effect in judicial proceedings in the courts of the State as the original records; provided, that the original book or books so transcribed shall be carefully kept and preserved by such Clerk, as other archives of his office; and provided further, that the book or books so transcribed shall conform in all respects to the original record as indexed; and also, that the designation of such transcribed book or books, whether by letter or number, shall not be changed from the original.

Sec. 3. That the County Clerk, or person making such transcript, shall be entitled to compensation therefor at the rate of ten cents per one hundred words, and for comparing and verifying the same, payable out of the county treasury, upon warrant issued under order of the Commissioners' Court.

Approved August 7, 1876.

Takes effect ninety days after adjournment.

CHAPTER LXXIX.—An Act to define and regulate the duties of County Attorneys.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be the duty of each County Attorney to attend all terms of the District and County Courts, and all criminal prosecutions before Justices of the Peace when notified of the pendency of such prosecutions; and, when not prevented by other official duties, to conduct all prosecutions for crimes and offences cognizable in such courts; to prosecute and defend all other actions in which the State or county is interested, and to perform such other duties as may be prescribed by the Constitution and laws of the State. They shall severally reside within the county for which they were elected, and shall notify the Attorney-General and Comptroller of Public Accounts of their post-office address.

Sec. 2. That the County Attorney shall be an attorney-at-law, duly licensed to practice in the District Court of this State, and shall, from time to time, give to the Attorney-General such information as he may require as to their official acts.

Sec. 3. That the County Attorney shall give to the Assessor of Taxes, the Collector of Taxes, or the County Treasurer of his county, an opinion in writing, at their request, touching their duties concerning the revenue of the State or county; and he shall give to the Clerk and

Sheriff of his county such advice in writing as he may deem necessary to insure the prompt collection of all money for which judgments may have been rendered in favor of the State or county.

Sec. 4. That it shall be the duty of the County Attorney, upon the collection of any money for the use of the county or State, to deliver to the person paying the same receipts therefor.

Sec. 5. That it shall be the duty of the County Attorney, on or before the last day of August of each year, to file in the office of Comptroller of Public Accounts an account in writing, verified by his affidavit, of all money received by him by virtue of his office during the preceding year, payable into the State Treasury; and he shall, within thirty days after its collection, pay into the State Treasury such money, after retaining the commissions allowed thereon by law.

Sec. 6. That, in like manner, the County Attorney shall file with the County Treasurer a similar statement of all money received by him by virtue of his office, payable to the County Treasurer, and he shall within twenty days after collection pay the sum so received into the County Treasury, less his commissions.

Sec. 7. That no County Attorney shall act as attorney or counsel for any party to an action wherein such party is charged with a crime, with a misdemeanor, or a breach of the penal statute; nor when the interest of such party is adverse to that of the State or county.

Sec. 8. That each County Attorney shall keep in proper books, to be procured for that purpose at the expense of the State, a register of all his official acts and reports; and all actions and demands prosecuted or defended by him; of all proceedings had in relation thereto, and shall deliver the same over to his successor in office; and such books shall at all times be open to inspection by the Commissioners' Court.

Sec. 9. That when it shall come to the knowledge of any County Attorney that any officer in his county entrusted with the collection or safe-keeping of any public funds is, in any manner whatsoever, neglecting or abusing the trust confided in him; or in any way failing to discharge his duties under the law, he shall institute such proceedings as are necessary to compel the performance of such duties by such officer, and to preserve and protect the public interests.

Sec. 10. That it shall be the duty of the County Attorney to present to the court having jurisdiction, any officer, by information, for the neglect or failure of any duty enjoined upon said officer, when such neglect or failure can be presented by information, whenever it shall come to the knowledge of said Attorney that there has been a neglect or failure of duty upon the part of said officer; and it shall be his duty to bring to the notice of the grand jury all acts of violation of law, or neglect or failure of duty upon the part of any officer, when such neglect, violation or failure are not presented by information, and whenever the same may come to his knowledge.

Sec. 11. That each County Attorney, before he enters upon the discharge of his duties, shall take and subscribe the oath of office prescribed by the Constitution, and shall execute a bond, with at least two solvent sureties, payable to the Governor and his successors in office, in the sum of twenty-five hundred dollars, to be approved by the County Commissioners' Court, conditioned that he will faithfully pay over, in the manner prescribed by this act, all moneys which he may collect, or may come to his hands for the State or county; which bond shall be, with the oath of office, recorded in the office of the County Clerk and

deposited in the Comptroller's office, and which bond shall not be void on the first recovery, but may be sued on until the full amount of the penalty is recovered; provided, that all County Attorneys in this State, who have not heretofore qualified by giving the bond and taking the oath prescribed in this section, shall have sixty days after the passage of this act to give the bond and take the oath; and all official acts done by said County Attorney in accordance with the provisions of this act prior to giving the bond and taking the oath shall be held as legal and binding as if the Attorney had duly qualified as required by this act.

Sec. 12. Whenever any County Attorney shall fail to qualify and give bond as required by law, or shall fail or neglect to attend any term of the District, County or Justice's Court, it shall be the duty of the Judge of such court, or such Justice, to appoint some competent attorney to perform the duties of County Attorney, who shall be allowed the same compensation for his services as is allowed the County Attorney for the same; provided, however, that such appointment shall in no instance extend beyond the term of the court at which such appointment was made; and provided further, that said appointment shall be vacated upon the appearance of the County Attorney.

Sec. 13. Upon complaint being made before the County Attorney that an offense has been committed which the County Court or a Justice of the Peace has jurisdiction to try, it shall be the duty of said County Attorney to reduce the complaint to writing, and cause the same to be signed and sworn to by the complainant, and it shall be duly attested by said County Attorney. Said complainant shall state the name of the accused, if his name is known, and the offense for which he is charged shall be stated in plain and intelligible words; and it must appear that the offense was committed in the county where the complaint is filed; and the complaint must show, from the date of the offense stated therein, that the offense is not barred by limitation.

Sec. 14. The complaint specified in section thirteen of this act may be made before any judge of the County Court, County Attorney or Justice of the Peace; and, for the purpose of carrying out the provisions of this act, the County Attorney is hereby authorized to administer an oath.

Sec. 15. It shall be the duty of the County Attorney, upon the filing of said complaint, to prepare an information in writing, which shall be in compliance with Article 403, Part third, Title four, Chapter three, of the code of criminal procedure.

Sec. 16. Whenever any credible person shall inform any County Attorney that an offense has been committed, and shall give the names of the person or persons who may have knowledge of an offense, it shall be the duty of said County Attorney, and he is hereby authorized and required, to issue a subpoena requiring said person or persons to appear before him, if the case is within the jurisdiction of the County or District Court, at a time and place named in such subpoena, to testify under oath in behalf of the State, without stating in the subpoena the nature of the offense or the party suspected; and for this purpose County Attorneys are hereby authorized to administer oaths. If the supposed case is one exclusively within the jurisdiction of a Justice of the Peace, the subpoena shall be returnable to the Justice of the Peace in whose precinct the offense was committed; and if said person or persons shall fail or refuse to obey said subpoena, it shall be the duty of said County Attorney, if he has reason to believe that the testimony is material, on his own motion, or upon the affidavit of any credible per-

son, to make his application to the Justice of the Peace, or Clerk of the court having jurisdiction of the case, for an attachment to compel the attendance of said witness, to testify before the said County Attorney, or Justice of the Peace, as the case may be, at a time and place named in the attachment; provided, that if the information given by said credible person be in writing and under oath, the attachment shall issue as an original process, upon the written application of said County Attorney; and it shall also be the duty of the County Attorney to notify the Justice of the Peace to whom he sends such witnesses of all the information he has relative to the case; and provided further, in capital cases, the subpoena or attachment shall be made returnable to the County Judge before whom the examination shall take place.

Sec. 17. Upon the appearance of said witnesses, it shall be the duty of the County Attorney, Justice of the Peace, or County Judge, as the case may be, to reduce their testimony to writing and cause the same to be signed by such witnesses; and if it appear therefrom that an offense has been committed, the County Attorney shall, upon said testimony, file an information in the court having jurisdiction of said offense, as is provided for in section thirteen of this act; or the Justice of the Peace shall issue his warrant thereon, if within his jurisdiction; provided, that nothing in this act shall be so construed to limit the power granted to magistrates and prosecuting officers under existing laws.

Sec. 18. If said witness, upon his appearance before said County Attorney, shall refuse to testify, it shall be the duty of the County Attorney to reduce his questions to writing, and the reasons, if any, given by said witness for his refusal to testify, and report the same by motion in writing to the District or County Judge, in term time or vacation as the case may be, whereupon said witness may be fined and imprisoned by said Judge in like manner as District Judges are authorized to do in cases where witnesses refuse to testify before grand juries.

Sec. 19. The County Attorney shall be entitled to the following fees, and no other, viz: In all cases of misdemeanor, where the defendant is prosecuted by the County Attorney, and is convicted, and no appeal is taken; or when, upon appeal, the judgment or sentence is confirmed, ten dollars, to be paid by defendants as other costs. In all cases of felony above and including the grade of manslaughter, when the defendant is convicted and fails to appeal; or when, upon appeal, the judgment or sentence of the court from which the appeal is taken, is confirmed, fifty dollars; and in all other cases of felony, when the defendant is convicted and fails to appeal; or when, upon appeal, the judgment or sentence of the court below is confirmed, thirty dollars, to be paid by the State. On all fines, forfeitures or money collected for the State or county, recovered by him, the County Attorney shall be entitled to ten per cent. of the amount so collected; for services rendered in examining courts, in every felony case where the party is finally convicted, and no appeal is taken; or when the judgment of the court below has been affirmed, ten dollars; provided, that for services rendered since the eighteenth day of April, 1876, and prior to the passage of this act, County Attorneys shall be entitled to the same fees prescribed by this act.

Sec. 20. The County Attorney shall not dismiss a case unless he shall file a written statement with the papers in the case, setting out his reasons for such dismissal, which shall be incorporated in the judgment of dismissal; provided, that no case shall be dismissed without the

permission of the presiding Judge, who shall be satisfied that the reasons set out in the said statement are good and sufficient to authorize such dismissal.

Sec. 21. The County Attorney shall not take any fee, article of value, compensation, reward or gift, from any person whomsoever, to prosecute any case which he is required by law to prosecute; nor shall he take any fee, article of value, compensation, reward or gift, from any person whomsoever, in consideration of, or as a testimonial for his services in any case which he is required by law to prosecute, after such case has been tried or finally disposed of.

Sec. 22. That this act in view of the necessities for the prompt establishment of the judiciary system required by the Constitution; therefore an emergency exists for the immediate passage of this act, and it shall take effect and be in force from and after its passage.

Approved August 7, 1876.

Takes effect from its passage.

CHAPTER LXXX.—An Act to ascertain the amounts due teachers for services rendered in the public schools from September 1, 1873, to January 1, 1876, and to provide for the payment of the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That the late Board of School Directors of each county shall constitute, and are hereby empowered to act as an Auditorial Board to audit all claims of teachers for services rendered in public schools of their respective counties, under the law and within the term specified in the caption of this act. In case of the refusal of any member of the late Board to act, the County Judge is hereby authorized to fill any vacancy; or if all the members of the late Board fail or refuse to act, then, in that case, to appoint a new Board.

Sec. 2. Each member shall be required to take an oath that he will faithfully perform the duties devolving upon him under this act.

Sec. 3. The Auditorial Board shall meet at the county-seats of their respective counties as soon as possible after the passage of this act and organize, when the Board will give thirty days' notice of the time of the meeting of the Board, by publishing said notice for thirty days in some newspaper published in the county; and if there is no newspaper published in the county, then by posting the same in ten public places in the county. At the expiration of the time, the Board will hold its sessions from day to day until they have passed upon such claims as may have been presented to them; provided, they shall not remain in session longer than six days.

Sec. 4. No claim shall be considered by the Board that has not been filed with said Board, or some member thereof, on or before the day set for their meeting.

Sec. 5. The Board, after the notice given as named in Section 3 of this act, shall proceed to pass upon all claims submitted to them under the requirements of this act, marking upon each, in writing and in figures, the amount due on each claim submitted.

Sec. 6. Having ascertained the amounts on all claims submitted, they shall aggregate the claims by school districts, indicating in the aggregate the amounts found to be due by each school district, respectively.

Sec. 7. In passing upon claims, the Board shall be governed strictly

by the law and official instructions of the Superintendent of Public Instruction in force at the time the contract was entered into.

Sec. 8. Having ascertained the amounts due from each district, they shall furnish the Commissioners' Court with a correct list of the several amounts due each claimant, together with a description, as far as practicable, of the bounds of each district.

Sec. 9. It shall be the duty of the Commissioners' Court, upon the receipt of said list, to make the necessary levy up(on) the property of each district separately that is in arrears, to raise sufficient revenue to satisfy said claims of teachers and expenses incurred in the execution of this law.

Sec. 10. It shall be the duty of the County Treasurer to report to the Commissioners' Court, the amount obtained from each district as soon as full returns have been made from any given district.

Sec. 11. It shall be the duty of the Commissioners' Court, upon receipt of said report, from the County Treasurer to order warrants to be issued on the County Treasurer in favor of claimants for the full amount shown to be due, if there be sufficient funds on hand to pay all the claims; but if it appear that there is not sufficient funds to pay all the claims against the district in full, the said Court shall pro-rata the amounts due and draw warrants accordingly, taking receipt for the same in full or partially as the case may be.

Sec. 12. The County Treasurer shall pay said warrants whenever presented, and hold the same as his voucher.

Sec. 13. In the event the records of the late Board of School Directors show that there are no claims as herein specified outstanding and due teachers, then said Board shall not be required to reorganize; or if these records show that sufficient tax has already been levied to meet all of said outstanding claims, but not collected, it shall only be necessary for the late County Superintendent of Public Instruction to report to the Commissioners' Court, in writing, the action had by the Board of Directors in regard to the matter of levying the deficiency school tax, giving the limits of the school districts, the amounts of levy in each, and the amount due each teacher, and also such expenses necessarily incurred in the execution of this law, when the said Court shall proceed to make sufficient levy to satisfy said claims; provided, all persons having paid the amount of school tax assessed against him or her, or any part thereof, shall have a credit for the amount so paid.

Sec. 14. The members of the Auditorial Board shall be allowed four dollars per day for every day they shall be engaged in the discharge of their duty as such Board, including the time in going to and returning from the county seat, and all other officers mentioned in this act, and the Collector of Taxes, shall receive such compensation as is now allowed by law for similar services.

Sec. 15. The amounts necessary to defray the expenses of the execution of this law shall be included in the aggregate assessment against said district.

Sec. 16. Whereas, an imperative public necessity exists for the passage of this law, in order that teachers may be paid the amounts due them, that this act be in force from and after its passage.

Sec. 17. That all laws and parts of laws in conflict with the provisions of this act the same be and are hereby repealed.

Approved August 7, 1876.

Takes effect from its passage.

CHAPTER LXXXI.—An Act to provide for and regulate Mechanics', Contractors', Builders', and other liens in the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That any person or firm, lumber dealer, artisan or mechanic, who may labor or furnish material, machinery, fixtures and tools, to erect any house, improvement, or to repair any building or any improvement whatever, shall have a lien on such house, building, fixtures or improvements, and shall also have a lien on the lot, or lots, or land, necessarily connected therewith, to secure payment for labor done, lumber, material, or fixtures furnished for construction or repairs. In order to fix and secure the lien herein provided for, the person or firm, contractor, mechanic, laborer, artisan or lumber dealer furnishing material, shall have the right at any time within six months after such debt becomes due to file his contract in the office of the County Clerk of the county in which such property is situated, and cause the same to be recorded in a book to be kept by the County Clerk for that purpose. If the contract, order or agreement be verbal, a duplicate copy of the bill of particulars shall be made, under oath, one to be delivered to the Clerk to be filed and recorded as provided for written contracts, and the other to be furnished to the party owing the debt. Both the contracts and accounts, when filed and recorded as above provided, shall be accompanied by a description of the lands, lots, houses, and improvements made, against which the lien is claimed. When such contract or account is filed and recorded, it shall be deemed sufficient diligence to secure the lien herein provided.

Sec. 2. The lien herein provided, if against land in the country, shall extend to and include fifty acres upon which such labor has been performed, or upon which the houses and improvements are situated. If in a city, town or village, it shall extend to or include such lot or lots upon which such houses, fixtures or improvements are situated, or upon which such labor was performed.

Sec. 3. The lien herein provided for labor performed or material furnished shall extend to the land designated, and the person enforcing the same may have the lot or lots and improvements sold altogether, or he may have the improvements sold only; and when the improvements are sold separately, the purchaser shall be by the officer making the sale placed in possession thereof, and he shall have the right to remove the same within a reasonable time from date of purchase; said sale to be upon judgment rendered by some court of competent jurisdiction foreclosing such lien and ordering sale of such property.

Sec. 4. But when lumber or material is furnished, labor performed, erection or repairs made upon a homestead, to fix a lien upon the same, it shall be the duty of persons, mechanics, artisans, lumber dealers or laborers, who shall perform any labor, or furnish any material upon or about the construction of any improvement or repairs upon a homestead, to make and enter into a contract in writing, setting forth the terms of said contract, which said contract in writing shall be signed by the husband and wife and acknowledged by her as required in making a sale of the homestead at the time when such improvements or repairs are to be made, or material furnished, or labor performed, and all such contracts shall be recorded in the County Clerk's office, in the county where such improvements are being made or land situated.

Sec. 5. The lien and contract mentioned in Section four shall inure

to the benefit of mechanics, artisans, laborers and lumber dealers, and other material men, who shall have built, erected, repaired, improved or furnished material for a homestead.

Sec. 6. Every mechanic, workman, or other person doing and performing any work or furnishing materials towards the erection, construction or completion of any building erected or improvement made under a contract between the owner of said building or other improvement and the original contractor, whose demand for work and labor performed, or material furnished toward the completion of said building or improvement has not been paid, may deliver to the owner of said building or improvement an attested account of the amount and value of said labor or materials thus furnished and remaining unpaid, and thereupon the owner shall retain out of the amount due such original contractor, if any, the amount of said labor or material furnished for the benefit of the party performing the work or furnishing the material; and a compliance with the provisions of this section shall be considered sufficient diligence to fix the liability of the owner of such building or improvement for the payment of such demand.

Sec. 7. Whenever any such account shall be placed in the hands of such owner or his authorized agent, it shall be the duty of such owner or his agent to furnish his contractor with a true copy of said attested account; and if said contractor shall not, within ten days after the receipt of said copy of attested account, give the owner written notice that he intends to dispute said claims, he shall be considered as assenting to the demand, which shall be paid by the owner when it becomes due. If said contractor shall dispute the claim of his journeyman or other person, for work and labor performed, or material furnished, as provided for in the preceding section, then such owner shall withhold the amount of said demand until the matter is adjusted between the parties by agreement, arbitration, suit or otherwise, when he shall pay over the amount to the party entitled to receive the same.

Sec. 8. An Act entitled, "An Act to provide for and regulate mechanics", contractors', builders' and other liens in the State of Texas," approved November 17, 1871, and all laws and parts of laws in conflict with this act, shall be and the same are hereby repealed.

Approved August 7, 1876.

Takes effect ninety days after adjournment.

CHAPTER LXXXII.—An Act fixing the times of holding the District Courts in the Twenty-third Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas, That the District Courts of the Twenty-third Judicial District shall be holden at the times hereinafter specified, to-wit: In the county of Karnes on the first Monday in March and September, and may continue in session one week; in the county of Live Oak on the first Monday after the first Monday in March and September, and may continue in session one week; in the county of Bee on the second Monday after the first Monday in March and September, and may continue in session one week; in the county of San Patricio on the third Monday after the first Monday in March and September, and may continue in session one week; in the county of Refugio on the fourth Monday after the first Monday in March and September, and may continue in session one week; in the county of Goliad on the fifth Monday after the first Monday in

March and September, and may continue in session two weeks; in the county of Calhoun on the seventh Monday after the first Monday in March and September, and may continue in session two weeks; in the county of Aransas on the ninth Monday after the first Monday in March and September, and may continue in session one week; in the county of Victoria on the tenth Monday after the first Monday in March and September, and may continue in session three weeks; in the county of DeWitt on the fourteenth Monday after the first Monday in March and September, and may continue in session three weeks.

Sec. 2. That in order to avoid conflict, and in order to facilitate the transaction of business in the courts of said district, an imperative public necessity exists for the passage of this act; therefore, this act shall take effect and be in force from and after its passage.

Approved August 9, 1876.

Takes effect from its passage.

CHAPTER LXXXIII.—An Act supplemental to and amendatory of an act entitled “An Act regulating the government of the Agricultural and Mechanical College of Texas,” approved March 9, 1875.

Section 1. Be it enacted by the Legislature of the State of Texas, That each of the Board of Directors of the Agricultural and Mechanical College of Texas, except the Governor of the State, shall be allowed the sum of five dollars per day for each day they may have attended, or shall hereafter attend, the meetings of the Directors; and that they be allowed five dollars for each and every twenty-five miles traveled from their place of residence to the place of meeting; provided, that when meetings of the Board occur during sessions of the Legislature, the Lieutenant-Governor and Speaker shall not receive mil(e)age and per diem.

Sec. 2. That all laws and parts of laws in conflict with this act be and the same are here(by) repealed.

Sec. 3. There having been two meetings of said Board of Directors, and said Directors having expended their own private means in their attendance on the said meetings, an emergency and imperative necessity exists for the passage of this act, and that the same take effect from and after its passage.

Approved August 9, 1876.

Takes effect from its passage.

CHAPTER LXXXIV.—An Act to regulate proceedings in the County Court pertaining to the estates of deceased persons.

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be established in each organized county in this State a County Court, which shall be a court of record, and shall have the general jurisdiction of a Probate Court. Said court shall consist of a County Judge, who shall possess the qualifications, be elected, and hold office, as prescribed by the Constitution. The jurisdiction of said court shall be exercised as provided in this act, and wills shall be admitted to probate, and letters testamentary or of administration shall be granted: first, in the county where the deceased resided, if he had a domicil or fixed place of residence in the State; second, if the deceased had no domicil or fixed place of residence in the State, but died in the State, then either in the county where his principal property was at the

time of his death, or in the county where he died; third, if he had no domicile or fixed place of residence in the State, and died without the limits of the State, then in any county in this State where his nearest kin may reside; fourth, but if he had no kindred in the State, then in the county where his principal estate may be situated. And the probate of wills and grant of letters of administration in any other than the proper county shall be void.

Sec. 2. Before granting letters testamentary, it must appear to the court: first, that the person is dead; second, that four years have not elapsed since his decease prior to the application; third, that the court has jurisdiction of the estate; fourth, that the will has been proved as prescribed by law; fifth, that the person to whom the letters are to be granted is named as executor in the will; sixth, that the person named as executor is not disqualified by law. The first three subdivisions of this section have no application when letters of administration have been previously granted in said court. Before granting letters of administration, it must appear to the court: first, that the person is dead; second, that four years have not elapsed since his decease prior to the application; third, that the court has jurisdiction of the estate; fourth, that the person to whom the letters are about to be granted is entitled thereto by law, and is not disqualified. All applications for the probate of wills, and for letters testamentary or of administration, shall be in writing and filed with the Clerk of the County Court. Upon the filing of any such application it shall be the duty of the Clerk to give at least ten days' notice thereof, by advertisement posted at the courthouse, and at two other public places in the county not in the same city or town; and proof that such notice has been given shall be made to the satisfaction of the court before any action shall be had on such application.

Sec. 3. A written will may be proved by the affidavit in writing of one of the subscribing witnesses thereto, taken in open court and subscribed by the witnesses. If all the witnesses are non-residents of the county, or those resident in the county are unable to attend court, it may be proved by the testimony of any one or more of them taken by deposition. If none of the witnesses are living, such a will may be probated on proof by two witnesses of the handwriting of the subscribing witnesses, and also of the testator, if he was able to write; which proof may be either by affidavit taken in open court and subscribed by the witness, or by deposition. If the will was wholly written by the testator, it may be probated on proof by two witnesses of his handwriting, which proof may also be made either by affidavit taken in open court and subscribed by the witnesses, or by deposition; such affidavits or depositions shall be filed in the court, and together with the will shall be recorded by the clerk; and in any suit that may afterwards be instituted to contest the validity of any such will, such record shall be evidence, if the witness or witnesses be dead or resident without the county. Any person interested in any such will may, within four years after it is admitted to probate, institute suit in the County Court to contest its validity; provided, that infants, femes covert and persons non compos mentis, shall have the like period after the removal of their respective disabilities; and provided, also, that any such will may be attacked for forgery or any other fraud, at the suit of any heir at law of the testator, or any other person interested in his estate, at any time within four years after the discovery of such forgery or other fraud; and infants, femes

covert, and persons non compos mentis, shall have a like period after the removal of their disabilities.

Sec. 4. No noncupative will shall be proved within fourteen days after the death of the testator, nor until those who would have been entitled by inheritance, had there been no will, have been cited to contest the same if they please; nor shall any such will be probated after six months have elapsed from the time of speaking the pretended testamentary words, unless the same or the substance thereof shall have been committed to writing within six days after making such will; nor shall any such will be probated unless it be made in the time of the last sickness of the deceased, at his or her habitation, or where he or she hath resided for ten days next preceding, except when the deceased is taken sick away from home and dies before he or she returns to such habitation; nor shall any such will be probated unless it be proved by three credible witnesses that the testator or testatrix called on some person to take notice or bear testimony that such is his or her will, or words of like import; and whenever any such will may be probated, the evidence of the witnesses shall be committed to writing, sworn to and subscribed in open court by the witnesses, and shall be recorded by the clerk.

Sec. 5. When application is made for the probate of a will which has been probated according to the laws of any of the United States and territories, or of any country out of the limits of the United States, a copy of such will and of the probate thereof, attested by the clerk of the court in which such will was admitted to probate, and the seal of the court annexed, if there be a seal, together with a certificate from the Judge, County Judge or presiding magistrate, as the case may be, that the said attestation is in due form, may be filed and recorded in the court, and shall have the same force and effect as the original will, if probated in said court; provided, that the validity of such will may be contested in the same manner as the original might have been.

Sec. 6. Application for the probate of a will may be made by the testamentary executor, or by any person interested in the estate of the testator.

Sec. 7. When application is made for the probate of a will, any person interested in the estate of the testator may at any time before trial file his opposition thereto in writing, and on trial of the matter, all oral testimony shall be taken down in writing and subscribed by the witness or witnesses; copies of all testimony, and also of the testimony of witnesses taken by deposition, shall be admitted in evidence on the trial of the same matter in any other court when taken there by appeal or otherwise.

Sec. 8. When a will shall have been probated, it shall be the duty of the court to grant letters testamentary to the executor or executors appointed by such will, if any there be, or to such of them as are not disqualified, and are willing to accept the trust and qualify according to law, within twenty days after such probate.

Sec. 9. When any person shall die intestate, or when no executor is named in a will, or when the executor or executors named in a will are disqualified, or shall renounce the executorship, or shall neglect to accept and qualify within twenty days after the probate of the will, or shall neglect for a period of thirty days after the death of the testator to present the will for probate, then administration of the estate of such intestate or administration with the will annexed of the estate of such testator, shall be granted: first, to the surviving husband or surviving

wife; second, to the next of kin, or the principal devisee or legatee of such intestate or testator, or to some one or more of them; and if none of these apply, or if applying they neglect to qualify for a period of twenty days after the order for their appointment, then to such other proper person or persons as will accept and qualify; provided, that no administration shall be had under this act, of any estate, unless it shall be shown to the court granting the administration that the intestate was in debt at the time of his death, and at the time of the filing of the application for letters of administration.

Sec. 10. Letters testamentary or of administration shall not be granted to any person who is under twenty-one years of age, or of unsound mind, or who has been convicted of any infamous crime; provided, however, that such letters may be granted to a surviving husband or wife who may be under twenty-one years of age.

Sec. 11. When the executor or executors named in a will are under age, and letters of administration, with the will annexed, have been granted to any other person or persons, such letters shall, at any time thereafter, be revoked on the application of such executor or executors, or any one of them, and letters testamentary issued to such executor or executors, or any of them, upon proof being made that he or they have attained the age of twenty-one years; and when two or more persons are named executors in a will, any one or more of whom are minors when such will is admitted to probate, and letters testamentary have been issued to such only as are of full age, such minor or minors, upon attaining the age of twenty-one years, shall be permitted to qualify and receive letters.

Sec. 12. Whenever any person named as executor shall have been absent from the State when the testator died or when the will was proved, whereby he was prevented from presenting the will for probate within thirty days after the death of the testator, or from accepting and qualifying as executor within twenty days after the probate of the will, or whenever he shall have been prevented by sickness from so presenting the will or so accepting and qualifying, he shall be allowed to accept and qualify as executor at any time within sixty days after his return to the State, or his recovery from sickness, upon making proof to the court that he was so absent or prevented by sickness; and if in the meantime letters of administration with the will annexed have been granted, such letters shall be revoked; provided, he shall have first caused the person to whom letters have been granted to be cited to appear before said court and show cause why said letters should not be revoked.

Sec. 13. When administration has been granted to any other person or persons than the surviving husband or surviving wife of the testator or intestate, upon application being made by him or her, such other person or persons shall be removed from the administration and letters of administration be granted to such applicant.

Sec. 14. When administration has been granted to any other person than the surviving husband or the surviving wife, or the next of kin, or the principal devisee or legatee of the intestate or testator, upon application being made by the next of kin, or the principal devisee or legatee of such intestate or testator, or any of them, such other person or persons shall be removed from the administration, and letters shall be granted to such next of kin, or principal devisee or legatee, or to some one or more of them; provided, that said husband or wife, or next

of kin, or the principal devisee or legatee of such intestate or testator, have not waived their right.

Sec. 15. Whenever letters of administration shall have been granted upon an estate, and it shall afterwards be discovered that the deceased left a lawful will, such will may be proved in the manner provided in this act; and if an executor is named in such will he shall be allowed to accept and qualify in the manner herein provided; but if no such executor be named, or if the executor named be disqualified, or shall renounce the executorship, or shall neglect to accept and qualify within twenty days after the probate of the will, or shall neglect for a period of thirty days after the discovery of such will to present it for probate, then administration, with the will annexed, of the estate of such testator shall be granted according to the provisions of this act; and whenever such executor shall accept and qualify, or whenever any person shall be appointed and qualified as administrator with the will annexed, the letters of administration previously granted shall be revoked; but all acts done by the first administrator, previous to the qualification of the executor or administrator with the will annexed, shall be as valid as if no such will had been discovered.

Sec. 16. When a will has been admitted to probate in any of the United States or the territories thereof, or of any country out of the limits of the United States, and the executor or executors named in such will have qualified, and a copy of such will and of the probate thereof has been filed and recorded in any court of this State under the provisions of the fifth section of this act, and letters of administration with such will annexed have been granted to any person or persons other than the executor or executors therein named, upon the application of such executor or executors, or any one of them, such letters shall be revoked, and letters testamentary shall be issued to such applicant, and if said executor or executrix, when he or she be a resident or non-resident, if no objection be made by creditors of said testator, shall have authority to sell and convey any property belonging to the estate of his testator that he may deem necessary without any action of the County Court.

Sec. 17. When application is made for letters of administration, any person may, at any time before the said application is granted, file his opposition thereto in writing, and may apply for the grant of letters to himself or to any other person; and upon the trial the court shall grant letters to the person or persons that may seem best entitled to them, having regard to the provisions of this act, without further notice than that of the original application.

Sec. 18. Whenever an estate is unrepresented by reason of the death, removal or resignation of the executor or executors, or administrator or administrators, the court shall grant administration with the will annexed of the estate not administered, or administration of the estate not administered, as the case may be, in the same manner and under the regulations herein prescribed for the appointment of original administrators.

Sec. 19. Whenever an executor or administrator has been qualified in the manner required by this act, the certificate of the Clerk of the court, attested by the seal of said court, as to the qualification of said executor or administrator, shall be sufficient evidence of such appointment and qualification when it shall be necessary to make proof of such fact.

Sec. 20. Wills shall be probated, and letters testamentary or of ad-

ministration with full powers shall be granted, only in open court at a regular term thereof, after application in writing and notice as herein-before required; but whenever it may appear to the County Judge that the interest of an estate requires the immediate appointment of an administrator, he shall either in open court or in vacation, by writing under his hand and seal of the court, attested by the Clerk, appoint some proper person administrator pro tem., with such limited powers as the circumstances of the case may require. Such appointment may be made without notice, shall define the powers conferred, and before being delivered to the person appointed shall be recorded in the minutes of the court, and the Clerk shall endorse thereon a certificate that it has been so recorded; and until such record and certificate are made, the appointment shall not take effect; such appointment shall cease to be of force on the first day of the term of the court next after the date thereof, unless continued in force by an order entered upon the minutes in open court; and in no case shall such appointment continue in force beyond the first day of the second term of the court next after the date thereof.

Sec. 21. Pending any contest relative to the probate of a will, or the granting of letters of administration, whether such contests be in the County Court or in any other court on appeal, it shall be the duty of the County Judge to appoint an administrator pro tem., in the manner prescribed in the preceding section, and with such limited powers as the circumstances of the case may require; such appointment may continue in force until the termination of the contest and the appointment of an executor or administrator with full powers.

Sec. 22. Before the issuance of letters of administration pro tem. under the provisions of the two preceding sections, the person appointed shall take and subscribe an oath and enter into bond; which bond and oath shall be in substance the same as the bond and oath required of other administrators, varying the form to suit the particular case; and such bond and oath shall be filed and recorded in the like manner as other bonds of administrators.

Sec. 23. If there be more than one executor or administrator named in the letters, any one or more of them, on the neglect of the rest, may return an inventory as required by this act; and the executor or administrator so neglecting shall not thereafter interfere with the estate, or have any power over the same; but the executor and administrator so returning shall have thereafter the whole administration, unless within two months after the return, the delinquent or delinquents shall assign to the court some reasonable excuse which it shall deem satisfactory.

Sec. 24. When an administrator of the estate not administered has been, or shall be hereafter appointed, he shall succeed to all the rights, powers and duties of the former executor or administrator, except such rights and powers conferred on the former executor by the will of the testator as are different from those conferred by this act on executors generally; and such administrators shall have power to make themselves parties to all suits prosecuted by the former executor or administrator of the estate, and may be made parties to all suits prosecuted against the former executor or administrator of the estate. They shall have power to settle with the former executor or administrator of the estate, and to receive and receipt for all such portion of the estate as remains in their hands; they shall have power to bring suit on the bond or bonds of the former executor or administrator in their own name as administrators for all the estate that has not been accounted for by such

former executor or administrator; and they shall proceed to administer such estate in like manner as if their administration was a continuation of the administration of the former executor or administrator, with the exceptions hereinbefore named; but such administrators shall, within one month after being qualified, return an inventory and list of claims in like manner as is required in this act for original administrators; and they shall also, in like manner, return additional inventories and lists of claims. And whenever an executor shall accept and qualify, after letters of administration shall have been granted, such executor shall, in like manner, succeed to the previous administrator; and he shall proceed to administer the estate in like manner as if his administration was a continuation of the former one, subject, however, to any legal directions of the testator in relation to the management of the estate.

Sec. 25. Whenever, under the provisions of this act, an administrator pro tem. shall have been appointed, and an executor shall afterwards be qualified, or an administrator appointed, such executor or administrator shall succeed and be made a party to all suits and actions prosecuted by or against such administrator pro tem.; and such executor or administrator shall have the right to settle with such administrator pro tem., and receive and receipt for all the estate remaining in his hands, and shall have the right to sue, in like manner as is provided for in the previous section, on the bond of such administrator pro tem., for all the estate not accounted for by him.

Sec. 26. Executors and administrators shall be removed by the County Judge without notice, in term time, by an order entered on the minutes of the court in the following cases: First, when they neglect to qualify in the manner required by this act within twenty days after the will is probated, or the order is made for granting of their letters. Second, when they shall neglect to return to the court, within sixty days after receiving their letters, an inventory of the estate committed to their charge, so far as the same has come to their knowledge. Third, when they have been required to give a new bond, and neglect to do so within the time prescribed by the court. Fourth, when administrators absent themselves from the State for a period of three months, without the permission of the court.

Sec. 27. Executors and administrators may be removed by the County Judge, of his own motion or on the complaint of any person interested in the estate, after being cited to answer such complaint or motion, in the following cases: First, when they shall fail to make to the court any exhibit that they are required to make by the provisions of this act, or when they shall fail to comply with any order that the County Judge is authorized to make against them, under the provisions of the same. Second, when there shall appear sufficient grounds to believe that they have or are about to misapply, embezzle or remove from the State, the property committed to their charge. Third, when they are proved to have been guilty of gross neglect or mismanagement in the performance of any of their duties. Fourth, when they fail to obey any order of the court consistent with this act, in relation to the estate committed to their charge. In the cases enumerated in this section, on proof being made that the executor or administrator has removed from the State or otherwise endeavored to elude the service of process on any such complaint or motion, the same may be heard and determined, though the citation be not served; and in all cases where an executor

or administrator is removed, the causes of such removal shall be set forth in the order of removal.

Sec. 28. If any person named as executor shall have renounced the executorship, or shall have been removed therefrom, he shall not afterwards be appointed administrator of the estate; and whenever any person shall have been removed from the administration of an estate, he shall not afterwards be appointed administrator thereof.

Sec. 29. If at any time an executor or administrator shall wish to resign the administration of the estate that has been committed to his charge, he may present to the court from which his letters issued, a full and complete exhibit of the condition of the estate, together with his administration account—both of which shall be verified by affidavit—and also his application in writing for leave to resign; whereupon it shall be the duty of the clerk to make out a citation returnable to some regular term of the court, which citation shall state the presentation of such exhibit, account and application, the term of the court to which it is returnable, and shall require all those interested in the estate to appear and contest such account if they see proper. Such citation shall be published for at least twenty days in some newspaper printed in the county, if there be one; if not, then by posting copies thereof for a like period at three public places in the county. Proof of such publication may be made by the affidavit of the publisher or printer attached to a copy thereof. At the return term of such citation, or at some other term to which it may have been continued, upon the County Judge being satisfied that such citation has been published or posted, as the case may be, he shall proceed to examine such exhibit and account, and to hear all proof that may be offered in support of the same, and all objections and exceptions thereto; and shall, if necessary, re-state such accounts, and shall audit and settle the same. If it shall then appear that such executor or administrator has accounted for all said estate according to law the County Judge shall order him to deliver the estate, if there be any remaining in his possession, to some person who has given bond for the same, in like manner as herein prescribed for administrators. Upon complying with such order, said executor or administrator shall be permitted to resign his trust and be discharged.

Sec. 30. Before the issuance of letters testamentary or of administration with the will annexed, the person named executor or appointed administrator with the will annexed, shall, before the Clerk or County Judge, or any officer authorized to administer oaths, take and subscribe an oath in form as follows: "I do solemnly swear that the writing which has been offered for probate is the last will of ———, so far as I know or believe, and that I will well and truly perform all the duties of executor of said will, or of administrator with the will annexed, of the estate of said ———."

Sec. 31. Before the issuance of letters of administration, the person appointed administrator shall, before the Clerk or County Judge, or any officer authorized to administer oaths, take and subscribe an oath in form as follows: "I do solemnly swear that ———, deceased, died without leaving any lawful will, so far as I know or believe; and that I will well and truly perform all the duties of administrator of the estate of said ———."

Sec. 32. Before the issuance of letters testamentary or of administration, the person named as executor or appointed administrator, shall enter into bond with at least two good and sufficient sureties, to

be approved by and payable to the County Judge of the county, in such penalty as he may direct, not less than double the estimated value of the estate of the testator or intestate; provided, however, that when any testator shall direct in his will that no security shall be required of the person or persons named therein as executor or executors, letters testamentary shall be issued to such person or persons without any bond being required.

Sec. 33. The oath of an executor or administrator may be taken and subscribed, or his bond may be given, either in term time or vacation, at any time before the expiration of twenty days from the probate of the will or the order granting the letters, or before his letters shall have been revoked for failure to do so within the time allowed, and all such oaths and bonds shall be filed and recorded by the clerk.

Sec. 34. The following form may be used for the bonds of executors and administrators:

The State of Texas, county of _____. Know all men by these presents, that we, A. B., as principal, and C. D. and E. F., as sureties, are held and firmly bound unto the County Judge of the county of _____, or his successors in office, in the sum of _____ dollars, for the payment of which, well and truly to be made unto the said County Judge, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents, signed with our hands the _____ day of _____, A. D. 18—. The condition of this obligation is such, that whereas the above bound A. B. has been appointed executor of the last will and testament of J. C., deceased (or has been appointed by the County Judge of the county of _____, administrator, with the will annexed, of the estate of the said J. C., deceased; or has been appointed by the County Judge of the county of _____, administrator of the estate of J. C., deceased, as the case may be). Now if the said A. B. shall well and truly perform all the duties required of him under said appointment, then this obligation shall be null and void, otherwise to remain of full force and effect.

A. B.
C. D.
E. F.

Sec. 35. Whenever a married woman may be appointed as executrix, and shall wish to accept and qualify as such, she may jointly with her husband execute such bond as the law requires, and acknowledge the same before the County Judge or Clerk of the court, or any Notary Public of the county where the will was proved or letters were granted; and such bond shall bind her estate in the same manner as if she were a feme sole; and whenever an executrix may be a married woman she shall act as a feme sole in all matters pertaining to her said representative capacity; provided, that no married woman shall administer the estate of her former husband during the continuance of the second or subsequent marriage.

Sec. 36. Whenever a surviving husband or wife under twenty-one years of age shall wish to accept and qualify as executor or executrix, or administrator or administratrix, he or she may execute such bonds as the law requires, and acknowledge the same before the County Judge, Clerk of the Court, or any Notary Public of the county in which the will was proved or letters of administration were granted, and such bonds shall be as valid as if he or she were of lawful age.

Sec. 37. When the sureties upon an executor's or administrator's bond, or any one of them, shall die, or shall remove beyond the limits

of the State, or shall become insolvent; or when in the opinion of the County Judge the sureties upon any such bond are insufficient, it shall be his duty, either in term time or vacation, to cause a citation to be issued and served upon such executor or administrator, requiring him to appear and show cause why he should not be required to give a new bond, on a day named in such citation, which may be in term time or vacation. And on the return of said citation served, the County Judge shall inquire into the truth of the matter, and if satisfied of the truth thereof, he shall require such executor or administrator to give a new bond.

Sec. 38. Any person interested in an estate may present a petition to the County Judge, representing that the bond of the executor or administrator is insufficient, whereupon it shall be the duty of the County Judge, either in term time or vacation, to cause a citation to be issued and served on such executor or administrator, requiring him to appear upon a day named in the citation, which may be either in term time or vacation, and show cause why he should not be required to give a new bond; and on the return of such citation served, the County Judge shall inquire into the truth of the fact alleged, and if satisfied of the insufficiency of the bond he shall require such executor or administrator to give a new bond; provided, that the administrator or executor shall pay all the costs of this proceeding when the bond is sufficient, and said administrator or executor shall not pay out any money or do any other official act after said service upon him until his new bond is approved.

Sec. 39. The sureties upon the bond of an executor or administrator, or any one of them, may at any time present a petition to the County Judge, praying that such executor or administrator may be required to give a new bond, and that he or they may be discharged from all liability for the future acts of such executor or administrator; whereupon it shall be the duty of said County Judge, whether in term time or in vacation, to cause a citation to be issued and served on such executor or administrator, requiring him to appear, on a day named in the citation, which may be either in term time or in vacation, and give a new bond; and whenever such new bond shall have been given and approved by the County Judge, such sureties shall be discharged from all liability under their bond for the future acts of such executor or administrator.

Sec. 40. In all cases where a new bond shall be required from an executor or administrator, under the provisions of this act, an order to that effect shall be entered in the minutes of the court, naming the time within which new bond shall be given; and until such new bond shall have been given and approved, the order shall have the effect to suspend the powers of such executor or administrator.

Sec. 41. The bond of an executor or administrator of any kind shall not become void on the first recovery, but may be put in suit and prosecuted from time to time until the whole amount thereof shall have been recovered. Such suit may be brought and prosecuted by any administrator of the estate not administered, in his own name as administrator, whenever the estate he represents has been injured by the breach of the bond of the executor or any previous administrator of the estate; or any other person or persons injured by a breach of any such bond may bring suit thereon in their own name, and any number of such persons may join in such suit.

Sec. 42. All suits on the bond of any executor or administrator shall

be commenced and prosecuted within four years next after the death, resignation, removal or discharge of such administrator, and not thereafter; provided, however, that infants, femes covert, and persons non compos mentis shall have at least two years within which to institute such suits after the removal of their respective disabilities.

Sec. 43. Whenever letters testamentary or of administration shall be granted, the County Judge shall, by an order entered on the minutes of the court, appoint three or more disinterested persons and citizens of the county, any two of whom may act, to appraise the estate of the deceased. If from any cause such appointments be not made, or if the appraisers or any of them so appointed fail or refuse to act, or if from any other cause a new appointment is required, the County Judge shall by a like order either in term time or vacation, appoint another appraiser or appraisers, as the case may require; and in all cases any two appraisers may act. Such appraisers shall each receive two dollars per day for every day they may be necessarily engaged, and all reasonable expenses.

Sec. 44. Every executor or administrator shall immediately after his appointment, with the assistance of any two or more of the appraisers appointed by the County Judge, make or cause to be made a full inventory and appraisement of all the estate of the testator or intestate, both real and personal, specifying in such inventory what portion of such estate is the separate property of the deceased, and what portion, if any, is represented as common property. The appraisement of the property specified in the inventory shall be sworn to and subscribed by the appraisers making the same before some officer of the county authorized by law to administer oaths; such executor or administrator shall also make and attach to such inventory a full and complete list of all claims due or owing to the testator or intestate, specifying what portion of such claims is the separate property of the deceased, and what portion, if any, is common property; such executor or administrator shall also make and attach to such inventory and list his affidavit in writing, subscribed and sworn to before some officer of the county authorized by law to administer oaths, that the said inventory and list is a full and complete inventory and list of the property and claims of his testator or intestate that has come to his knowledge.

Sec. 45. The inventory and list required to be made by the preceding section shall be returned to the court by the executor or administrator within sixty days after the date of his appointment, and may be returned either in term time or vacation; but when returned and approved it shall be noticed on the minutes of the court, and shall be recorded by the Clerk.

Sec. 46. Whenever other property or claims of the testator or intestate than such as may be included in the inventory and list which has been returned shall come to the knowledge of the executor or administrator, he shall make and return an additional inventory or list of such newly discovered property or claims, without delay, which said additional inventory and list shall be made, returned and recorded, in like manner as original inventories and lists; and any executor or administrator, on complaint of any person interested in the estate, shall be cited by the County Judge, and on good and sufficient proof being made that any property and claims of the estate have not been included in the inventory and list returned, shall be required to make and return an additional inventory and list thereof in like manner as original inventories and lists.

Sec. 47. Inventories, appraisements and lists of claims, taken and returned in accordance with the foregoing provisions of this act, may be given in evidence in any suit by or against the executor or administrator; but shall not be conclusive for or against him if it be shown that there is other property not inventoried; or that there are other claims than those named in such lists; or that the property or any part thereof, was bona fide sold for more or less than the appraisement: or was not separate or common property, as specified in such inventories and lists.

Sec. 48. When any inventory and appraisement has been returned in the manner hereinbefore provided, any person interested in the estate who may deem such appraisement unjust or erroneous, may apply to the County Judge for a new appraisement, notice of which application, together with a citation, shall be served on the executor or administrator requiring him to appear at a regular term of the court and show cause why a new appraisement should not be made. On the return of such citation, served, the County Judge shall inquire into the truth of the facts alleged, and if satisfied that such appraisement was manifestly unjust or erroneous, shall appoint other appraisers and order a new appraisement to be made and returned in like manner as original appraisements. When such new appraisement is made and returned, and approved, it shall be recorded, and shall stand in the place of the original appraisement, which shall be as if never made; provided, that not more than one re-appraisement shall be made.

Sec. 49. It shall be the duty of the executor or administrator to take such care of the property of his testator or intestate, real and personal, as a prudent man would take care of his own property, and if there be any buildings or houses belonging to the estate, it shall be his duty to keep the same in tenantable repair, extraordinary casualties excepted; and all reasonable expenses incurred by the executor or administrator in taking such care of the property, or in making such repairs, on sufficient proof thereof, shall be allowed him by the County Judge.

Sec. 50. If there be a plantation or manufactory belonging to the estate, and the disposition thereof be not specially directed by will, and if the same be not required to be at once sold for the payment of debts, it shall be the duty of the executor or administrator to carry on the plantation or manufactory, or rent the same, as shall appear to him to be most for the interest of the estate. In coming to a determination, he shall take into consideration the condition of the estate, and the necessity that may exist for future sale of such property for the payment of claims or legacies, and shall not extend the time of renting or hiring any of the property beyond what may consist with the speedy settlement of the estate; and any one who is interested in the estate, may, upon good cause shown after citation to the executor or administrator, obtain an order controlling his action in this particular.

Sec. 51. Whenever any property is hired or rented by an executor or administrator, under the provisions of this act, such renting shall be made at public auction to the highest bidder, after having given at least ten days' notice thereof by posting a copy of such notice at the court-house and two other public places in the county where the same is to take place; provided, the executor or administrator may rent or hire privately, but shall be required to show, to the satisfaction of the Judge, that private renting was advantageous to the estate.

Sec. 52. Every executor or administrator shall use ordinary diligence

to collect every claim due to the estate he represents, and to recover possession of all property to which the estate has a right; provided, there is a reasonable prospect that such claim can be collected on such property recovered; and if any executor or administrator shall neglect to use such diligence, he and his sureties on his bond shall be liable, at the suit of any person interested in the estate, for the use of the estate for the amount of such claims and the value of such property as may have been lost by his neglect to use such diligence.

Sec. 53. The naming an executor in a will shall not operate to extinguish any just claim which the deceased had against him; and in all cases where an executor or administrator may be indebted to his testator or intestate, he shall account for the debt in the same manner as if it were so much money in his hands; provided, however, that if said debt was not due at the time of receiving letters, he shall only be required to account for it from the date when it shall become due.

Sec. 54. Whenever an executor or administrator shall think it will be for the interest of the estate he represents to purchase any property, or take any claims for the use and benefit of the estate in payment of any debt due the estate, he may present a petition to the County Judge at a regular term of the court, representing these facts, and if the County Judge shall be satisfied that it will be for the interest of the estate to purchase such property or take such claims, he may make a decree authorizing such executor or administrator to make such purchase, either at public or private sale, or to take such claims for the use and benefit of the estate.

Sec. 55. When the mortgagee of any property shall die, the executor or administrator of such mortgagee shall be and is hereby authorized, on receiving from the mortgagor, or any person for him, the amount due to the estate he represents, to release to the mortgagor the legal title to such mortgaged property, and such release shall be valid.

Sec. 56. At the first term of the court after the original grant of letters testamentary or of administration, it shall be the duty of the County Judge to fix the amount of an allowance to be made for the support of the widow and minor children, if there be either or any, of the deceased, which allowance shall be of an amount sufficient for their maintenance for the term of one year, and shall be paid by the executor or administrator to the widow, if there be one; provided, that in case the widow is not the mother of said minor children, the portion of said allowance necessary for the support of such minor children shall be paid to their guardian, in case they have any such guardian; otherwise, to be paid to such widow, either in money out of the first funds of the estate that may come to his hands, or in such personal effects of the deceased as such widow or guardian may choose to take at the appraisement, or a part thereof in each, as they may select. If there be no personal effects of the estate that such widow or guardian are willing to take for such allowance, or not a sufficiency of them, and if there be no funds, or not sufficient funds of the estate in the hands of such executor or administrator to pay such allowance, or any part thereof, then it shall be the duty of the County Judge, so soon as the inventory and list of claims are returned, to order a sale of so much of the estate for cash as will be sufficient to raise the amount of such allowance, or a part thereof, as the case may require; provided, however, that when any such widow and minor children shall have separate property adequate to their maintenance then no such allowance shall be made as is provided for in this section.

Sec. 57. At the first term of the court after an inventory and list of claims have been returned, it shall be the duty of the County Judge to set apart for the use and benefit of the widow and minor children, and unmarried daughters remaining with the family, if there be either or any, of the deceased, all such property as may be exempted from execution or forced sale by the Constitution or laws of the State, with the exception of any exemption of one year's supply of provisions; and in case there should not be among the effects of the deceased all or any of the specific articles so exempted, it shall be the duty of the County Judge to make an allowance in lieu thereof to the widow and children, or such of them as there be, which allowance shall be paid by the executor or administrator, either in money out of the funds of the estate that may come to his hands, or in any property of the deceased that such widow or children may choose to take at the appraisement, or a part thereof, or both, as they may select. If there be no property of the deceased that such widow or children are willing to take for such allowance, or not a sufficiency, and there be no funds, or not sufficient funds of the estate in the hands of such executor or administrator to pay such allowance, or any part thereof, it shall be the duty of the County Judge, on the application of such widow or children, to order a sale of so much of the estate for cash as will be sufficient to raise the amount of such allowance, or a part thereof, as the case may require. Such allowance shall be paid in the following manner: If there be a widow and no children, the whole to be paid to the widow; if there be a child or children and no widow, the whole to be paid to such child, or to be equally divided among such children; if there be a widow and a child or children, one-half to be paid to the widow, and the other half to such child, or to be equally divided among such children; provided, that if the estate of such decedent be not insolvent, nothing in this section contained shall be so construed as to prohibit the partition and distribution of said estate, except the homestead, among the heirs and distributees thereof, including the portion herein provided to be set aside for the use of the widow and children; provided, that an allowance for homestead shall not exceed five thousand dollars, and the allowance for other exempted property shall not exceed five hundred dollars, exclusive of one year's provisions. No property on which liens have been given by the husband and wife, acknowledged privately and apart from her husband, to secure creditors, shall be appropriated to make up the five thousand or five hundred dollars aforesaid, until the debts secured by such liens shall be discharged.

Sec. 58. It shall be the duty of executors and administrators, within one month after receiving their letters, to publish in some newspaper printed in the county where the letters were issued, if there be one, a notice requiring all persons having claims against the estate of the testator or intestate to present the same within the time prescribed by law, which notice shall state the time of the original grant of letters testamentary or of administration, and shall be published once a week for four successive weeks; when no newspaper is printed in the county, a copy of such notice shall also be posted at the court-house; a copy of such printed notice, together with the affidavit of the publisher of the paper that it was published once a week for four successive weeks, sworn to and subscribed before any County Judge, Clerk of a court or Notary Public, and attested by his official seal, may be filed and recorded in the court from which the letters were issued, and a copy

thereof may be given in evidence in any court in any action, whether by or against the executor or administrator; and a copy of the notice posted at the court-house, with a certificate of the Clerk that such notice was so posted, may be filed and recorded and a copy thereof be given in evidence in the like manner as provided for the printed notice.

Sec. 59. Every claim for money against a testator or intestate shall be presented to the executor or administrator within twelve months after the original grant of letters testamentary or of administration, or the payment thereof shall be postponed until the claims which have been presented within said twelve months and allowed by the executor or administrator, and approved by the County Judge or established by suit, shall have been first entirely paid; provided, that if the executor or administrator absent himself from the State or county, the time of such absence shall not be computed in estimating the twelve months in which claims against the estate shall be presented.

Sec. 60. If any executor or administrator fail to give the notice required by the fifty-eighth section of this act to be given, he shall be removed by the County Judge at any regular term of the court, on the complaint of any person interested in the estate, after being cited to answer such complaint.

Sec. 61. No executor or administrator shall allow any claim for money against his testator or intestate, nor shall any County Judge approve any such allowance, unless such claim is accompanied by an affidavit in writing that the claim is just, and that all legal offsets, payments and credits known to the affiant have been allowed; which affidavit, if made in the county where the letters were granted, may be made before any officer of the county authorized to administer [oaths]; if made in any other county of this State, it shall be made before some County Judge, Clerk of a court, or Notary Public, and shall be attested by his official seal; if made out of the State, it shall be made before some Notary Public, Clerk or Judge of a court of record having a seal, or Commissioner of Deeds for this State, and shall be attested by the seal of his office. If any such claim is allowed or approved without such affidavit, such allowance or approval shall be of no force or effect.

Sec. 62. No holder of a claim for money against the estate of a deceased person shall bring suit thereon against the executor or administrator unless such claim, properly authenticated, has been presented to such executor or administrator and he has refused to allow such claim for the whole amount, or a part thereof; or unless such claim has been presented to the County Judge and he has disapproved of the allowance made by the executor or administrator, or a part thereof. In any suit that may be brought by the holder of any such claim, if he fails to recover thereon a greater amount than has been allowed by the executor or administrator, or than has been approved by the County Judge, he shall be liable for all costs of such suit.

Sec. 63. When any claim for money against an estate shall be presented to the executor or administrator, if the same be properly authenticated in the manner required by this act, he shall endorse thereon or annex thereto a memorandum in writing, signed by him, stating the time of its presentment, and that he allows or rejects the claim, or what portion thereof he allows or rejects, as the case may be. If the claim, or a part thereof, be allowed by the executor or administrator, it shall then be presented to the County Judge within three months, if said County Judge be not absent from the State or county, either in term time or vacation,

who shall endorse thereon or annex thereto a memorandum in writing signed by him, stating that he approves or disapproves of such allowance, or of what portion of such allowance he approves or disapproves. If all or any portion of the claim be so allowed and approved, the holder thereof shall be entitled to receive payment of the amount so allowed and approved in due course of administration. If such claim be rejected by the executor or administrator, either for the whole amount or a part thereof, or if the allowance or any part thereof made by the executor or administrator be disapproved of by the County Judge, the holder of such claim may within three months after such rejection by the executor or administrator, but not thereafter, bring a suit against the executor or administrator for the establishment thereof in any court having jurisdiction of the same; and on the trial of such suit the memorandum in writing of the executor or administrator, or of the County Judge, endorsed on or annexed to such claim, may be given in evidence to prove the facts therein stated without proof of the handwriting of such executor or administrator or County Judge, unless the same be denied under oath. No execution shall issue on a judgment obtained by the plaintiff in any such suit, but such judgment shall have the same force and effect as if the amount thereof had been allowed by the executor or administrator and approved by the County Judge; provided, that when a claim has been allowed by the executor or administrator and approved by the County Judge, the owner or holder thereof shall within ten days thereafter cause a memorandum of the amount, date of claim and date of allowance and approval, [to be] recorded in the office of the County Clerk on the claim docket, a book for which purpose shall be kept by the Clerk.

Sec. 64. When a claim for money against the estate of a deceased person, authenticated in proper form, shall be presented to the executor or administrator within the time prescribed by law, if such executor or administrator fail or refuse to endorse thereon or annex thereto a memorandum in writing, as the previous section requires, such failure or refusal shall be deemed equivalent to a rejection of the claim by the executor or administrator, and shall authorize the holder to bring a suit for the establishment thereof in like manner as if such claim had been so rejected; and such executor or administrator shall be removed by the County Judge at any regular term of the court, on the complaint of any person interested in such claim, after being cited to answer such complaint, and proof being made of such failure or refusal.

Sec. 65. When any person shall sell property and enter into bond or other written agreement to make title thereto, and shall depart this life without having made such title, the holder of such bond or written agreement, or his legal representatives, may file a complaint in writing in the County Court of the county where letters testamentary or of administration of such deceased person were granted, praying that the executor or administrator may be required to make titles agreeably to the title bond or other written agreement of the deceased; whereupon it shall be the duty of the Clerk of said court to issue a citation with a copy of the complaint to be served on the executor or administrator, and on the return thereof, served at some regular term of the court, the County Judge shall, if he find that such sale was legally made, order the executor or administrator to make titles according to the tenor of the bond or other written agreement, to the property so sold by his testator or intestate; whereupon it shall be the duty of such executor or ad-

ministrator to make titles in compliance with such order; provided, however, that any person interested in such estate may at any time within two years after the making of any such order have the same annulled and set aside by a suit in the District Court, upon good cause shown why the same should not have been made; provided, also, that married women, minors, and persons of unsound mind so interested, shall have a like period of two years after the removal of their respective disabilities within which they may in like manner have such order annulled and set aside.

Sec. 66. At the first term of the court after the expiration of twelve months from the time of the original grant of letters testamentary or of administration, it shall be the duty of the executor or administrator to return to the court an exhibit in writing, sworn to and subscribed by him, setting forth a list of all claims against the estate that were presented to him within twelve months after the said grant of letters testamentary or of administration, specifying which have been allowed by him, which have been rejected, and the date when rejected; which have been sued upon, and the condition of the suit; also setting forth fully the condition of the estate; and if any executor or administrator shall neglect to return such exhibit at the term of the court named above, it shall be the duty of the County Judge to revoke his letters and fine him in a sum not to exceed one hundred dollars; said fine and order of revocation to be remitted and set aside only on good cause being shown for said failure either in term time or in vacation, on the complaint of any person interested in the estate, upon notice to such executor or administrator; provided, that before any judgment imposing a fine upon such executor or administrator shall be made final, such executor or administrator shall be served with notice.

Sec. 67. At the third regular term of the court, after the expiration of twelve months from the original grant of letters testamentary or of administration, it shall be the duty of the executor or administrator to return to the court a further exhibit in writing, sworn to and subscribed by him, setting forth a list of all suits that have been instituted against him since the return of the exhibit required by the sixty-sixth section of this act; the condition of such suits and all suits previously instituted, specifying which of said suits are upon claims presented to him within twelve months after such grant of letters, and which upon claims presented after the twelve months; also setting forth a list of all claims that have been presented to him since the expiration of the twelve months from said grant of letters, specifying which have been allowed by him and which have been rejected, with the date of the rejection; and he shall also, from time to time, after the said term, return to the court a further exhibit under oath, setting forth a list of all claims presented to and allowed or rejected by him since the return of his former exhibit, with the date of the rejection; and also of all suits instituted against him, and all judgments rendered upon suits against him since his former return. Any executor or administrator who shall fail to return to the court any exhibit as required by this section, may, for cause, be removed by the County Judge with due notice, either in term time or vacation, on the complaint of any person interested in the estate.

Sec. 68. All exhibits made by executors or administrators, showing a list of claims allowed and approved, or established against the estate they represent, or showing the condition of said estate, and an account of the moneys received and of the moneys paid out on account of said

estate, returned to the court before the filing of the final account provided for in a subsequent section of this act shall be filed with the Clerk, and notice of such filing shall be posted by the Clerk on the court-house door of the county for which said court is held; and no other action shall be had thereon until the expiration of at least twenty days from the posting of said notice, after the expiration of which time the County Judge shall, in term time, examine said exhibit, and if the same be found to be correct, render judgment of approval thereon, and order said exhibit to be recorded.

Sec. 69. No claim for money against his testator or intestate shall be allowed by an executor or administrator, nor shall any suit be instituted against him on any such claim after an order for partition and distribution has been made, as provided for in a previous section of this act; but the holder of any such claim not barred by the laws of limitation, shall have his action thereon against the heirs, devisees or legatees of the estate, but they shall not be bound beyond the value of the property they may receive in such partition and distribution.

Sec. 70. The provisions contained in this act respecting the presentation of claims shall not be so construed as to apply to the claim of any heir, devisee or legatee, when claiming in that capacity, nor to any claim that accrues against the estate after the granting of letters testamentary or of administration for which the executor or administrator has contracted, and any devisee or legatee may obtain from the County Judge of the court where the will was proved an order for the executor to deliver to him the property devised or bequeathed, whenever it shall appear to such County Judge that there will remain in the hands of the executor after such delivery a sufficient amount of the estate for the payment of all debts against said estate; provided, such devisee or legatee shall have first caused the executor and the other devisee or legatee, if any, and the heirs, if any of the estate is coming to them, to be cited to appear and show cause why such order should not be made.

Sec. 71. The provisions of this act respecting the presentation of claims shall not be construed to apply to any claim of an executor or administrator against his testator or intestate that has not been allowed by some previous executor or administrator of the same estate; but any executor or administrator holding any such claims shall file them in the court from which his letters were granted before the expiration of six months after the original grant of letters, or the same shall be barred. The County Judge shall thereupon, in term time, proceed to examine such claims and hear all legal evidence that may be offered in support of them, and if satisfied from the evidence that such claims, or any of them, are just, he shall enter on the minutes of the court his approval of such of them as he may think just, and the substance of the testimony on which the claim was established shall be taken down in writing, and be certified to by the Judge and filed with the Clerk among the papers of the estate at the time of such approval; and the amount so approved shall be paid in due course of administration, unless within three months after such approval some person interested in the estate shall take an appeal from such approval to the District Court, in which case such account, or so much thereof as may be approved by a jury, shall be paid in due course of administration. If such claims, or any of them, shall not be approved by the County Judge, the executor or administrator may appeal to the District Court in like manner, and such amount as may be approved by a jury shall be paid in due course of adminis-

tration. If in any appeal under the provisions of this section the executor or administrator shall fail to establish the whole of his claim, he shall be liable for costs, but if he establish the whole amount of his claim, the costs shall be paid out of the estate of the testator or intestate.

Sec. 72. It shall be the duty of every executor or administrator, so soon as he shall ascertain that it is necessary, to apply to the County Judge, at some regular term of the court, for an order to sell so much of the property of the estate he represents as he shall think sufficient to pay the expenses of administration and the debts of the estate. Such application shall be in writing, and shall be accompanied by a statement in writing of the estimated expenses of administration, and of all the claims against the estate that have been presented to him, specifying what claims have been allowed by him, what rejected, and those upon which suit has been instituted against him, with the condition of such suit or suits; which statement shall be verified by affidavit; upon the presentation of such application and statement, it shall be the duty of the County Judge, if satisfied that there is a necessity for such sale, to order the same to be made; but no order for the sale of real property for the payment of debts shall be made either on the application of the executor or administrator of any heir, devisee, or legatee, or creditor of the deceased, unless notice of the application therefor shall have been given for thirty days before the first day of the term at which said order is made. Such notice shall be given by a general citation, to be issued by the Clerk of the court to all persons interested in the estate, to show cause why such sale should not be made; which citation shall be posted for thirty days in at least three public places in the county, one of which shall be the court-house door, and no two of which shall be in the same city, town or village.

Sec. 73. When any executor or administrator shall neglect to apply for an order to sell sufficient property of the estate he represents to pay the expenses of administration and the claims against the estate that have been allowed and approved, or established by suit, such executor or administrator shall be required by the County Judge, on application in writing of any creditor of the estate whose claim has been allowed and approved or established by suits; or any heir, devisee or legatee of the deceased, to present to the court at some regular term thereof a statement in writing like that provided for in the preceding section; and upon proof to the court by any such creditor, heir, devisee or legatee that a necessity exists for a sale to pay the expenses of administration and the debts of the estate, it shall be the duty of the County Judge to order such sale to be made; provided, the executor or administrator shall have been first cited and due notice of such application shall have been given.

Sec. 74. Whenever there is property belonging to the estate of a deceased person that is perishable or liable to waste, upon the application in writing of the executor or administrator, or any heir, devisee or legatee of the deceased, or any creditor of the estate whose claim has been allowed and approved, or established by suit, the County Judge, by an order entered on the minutes of the court, either in term time or in vacation, may direct the sale of such property or any part thereof; provided, the executor or administrator may sell at public or private sale, and for cash or on a credit not exceeding six months, any personal property belonging to the estate that is perishable or liable to waste; and he

shall keep a true account of the sales made, making a list thereof specifying each article sold, the price for which it was sold, and the name of the purchaser; and he shall be responsible for the sales having been made at a fair price, and the circumstances authorizing such sale.

Sec. 75. The County Judge, either in term time or in vacation, may, by an order entered on the minutes of the court, direct the crops belonging to the estate of the deceased person, or any part thereof, to be sold at private sale, upon the application in writing of the executor or administrator, or any heir, devisee or legatee of the deceased, or any creditor of the estate whose claim has been allowed and approved or established by suit; provided, that no crops shall be sold under any such order at a less price than their fair or market value; and provided further, that the executor or administrator may sell the same without an order of the court.

Sec. 76. All sales for the payment of the debts owing by the estate shall be ordered to be made of such property as may be deemed most advantageous to such estate to be sold.

Sec. 77. Any creditor of the estate of a deceased person holding a claim secured by a mortgage or other lien, which claim has been allowed and approved, or established by suit, may obtain at a regular term of the court, from the County Judge of the county where the letters testamentary or of administration were granted, an order for the sale of the property upon which he has such mortgage or other lien, or so much of said property as may be required to satisfy such claim, by making his application in writing and having a copy thereof served upon the executor or administrator, with a citation requiring him to appear and answer such application, and in case the lien shall be upon real property, giving the notice of said application required to obtain an order for the sale of such property.

Sec. 78. When an application is made to the County Judge for an order to sell any property belonging to the estate of a deceased person, for the payment of debts, any person interested in such estate may, at any time before an order is made thereon, file his opposition in writing to such sale, or may make application in writing for sale of other property of the estate, and upon the hearing of the matter in controversy the County Judge shall make such order thereon as the circumstances of the case may require, having due regard to the provisions of this act.

Sec. 79. Whenever any property of an estate is ordered to be sold by the County Judge, such order shall be entered on the minutes of the court; shall describe the property to be sold, and shall specify the terms of such sale.

Sec. 80. Sales of personal property for the payment of debts may be ordered either for cash or on such credit as the County Judge may direct, and all sales of land for the payment of debts shall be made on a credit of twelve months, except when such sales are ordered to raise the amount of the allowance that may be made under the provisions of the fifty-sixth and fifty-seventh sections of this act, or for the satisfaction of a mortgage or other lien on said land, in which cases such sales shall be made on such terms as the County Judge may direct.

Sec. 81. All sales ordered by the County Judge shall be made to the highest bidder, and at public auction, unless otherwise directed by the will of the testator, or otherwise ordered by the County Judge under some provisions of this act; provided, that the County Judge may direct the sale of real property to be made at private sale for cash or on a

credit, if it shall appear to be for the interest of the estate, but in all such cases before the County Judge shall order a confirmation of the sale it must be shown, in addition to the other requirements of this act, that the sale was made for a fair price.

Sec. 82. Whenever in a will power is given to an executor to sell any property of the testator, no order of the County Judge shall be necessary to authorize the executor to make such sale, and when any particular directions are given by a testator in his will respecting the sale of any property belonging to his estate, the same shall be followed, unless creditors or heirs may thereby be prejudiced in their rights; provided, that should the executor or executrix be a non-resident of this State, he or she shall have the same power under said will as though he or she resided in this State:

Sec. 83. Whenever a public sale of property is ordered under the provisions of this act, if the same be personal property, it shall be advertised at least ten days before the day of sale; if the same be land, it shall be advertised at least twenty days before the day of sale. The manner of advertising shall be by posting a notice of such sale at the court-house and at two other public places in the county where the sale is to be made, but not in the same city or town. All such public sales shall be made within the hours of 10 a. m. and 4 p. m.; in case the day set apart for such sale shall be insufficient to complete the same, such sale may be continued from day to day by giving public notice of the continuance at the conclusion of the sale of each day, and the continued sale shall commence and close within the same hours. All such public sales of personal property shall be made at such time and place as may be directed by the County Judge in the order of sales; all such public sales of land shall be made on the first Tuesday of the month at the court-house door of the county where the letters testamentary or of administration were granted, unless the County Judge shall deem it for the advantage of the estate to order the sale in the county in which the property is situated; and in all cases where such public sale is ordered to be made in any other county than that in which the letters testamentary or of administration were granted, such sale may be advertised in both counties.

Sec. 84. When any person shall bid off property offered for sale, rent or hire, at public auction by an executor or administrator and shall fail to comply with the terms of sale, renting or hiring, such property shall be re-advertised and sold, rented or hired, and the person so failing to comply shall be liable to pay such executor or administrator for the use of the estate, ten per cent. on the amount of his bid; and, also, the deficiency in price on the second sale, renting or hiring, if any such deficiency there be; to be recovered by such executor or administrator by action brought before a Justice of the Peace or in the District Court or County Court, according to the amount of such penalty or deficiency.

Sec. 85. When a sale of property is ordered under the provisions of this act, it shall be the duty of the executor or administrator to make such sale, or cause it to be made in obedience to the order at the earliest period; and when such sale has been made it shall be the duty of the executor or administrator to return to the court that ordered the sale an account thereof, either in term time or in vacation, within thirty days after the day of sale. Such account shall be in writing, shall specify the property sold, the name of the purchaser, the price for

which it was sold, and the terms of sale, and shall be sworn to and subscribed by such executor or administrator before some officer authorized to administer oaths; whenever such account of sale is returned, such return shall be noted in the minutes of the court; and at any time after the expiration of five days from the noting of such return in the minutes of the court, it shall be the duty of the County Judge to inquire into the manner in which such sale was made, and if satisfied that it was fairly made, and in conformity with law, he shall cause to be entered on the minutes of the court a decree confirming it and ordering the account of sales to be recorded by the Clerk, and a conveyance to be made to the purchaser of land by the executor or administrator; if not satisfied that such sale was so made, he shall cause to be entered in like manner a decree setting it aside and ordering a new sale to be made; provided, that no sale of real estate shall be confirmed except at some regular term of the court. After any such decree or confirmation shall have been made, upon the purchaser complying with the terms of the sale, the executor or administrator shall execute and deliver to him a conveyance of the property so sold; if lands, reciting therein the decree confirming the sale and ordering the conveyance to be made, which conveyance of land so made shall vest the right and title that the testator or intestate had in the purchaser, and shall be prima facie evidence that all the requisites of the law have been complied with in making the sale, and such decree of confirmation of the sale of personal property shall in like manner vest the right and title thereof in the purchaser, and shall be like evidence that all the requisites of the law have been complied with in making the sale of such personal property.

Sec. 86. It shall not be lawful for any executor or administrator to take the estate of his testator or intestate, or any part thereof, at its appraised value, or to sell the same, or any part thereof, unless under the direction of the will or the order of the County Judge under the provisions of this act or to become the purchaser, either directly or indirectly, of any property of the estate sold by him; and if any executor or administrator should either directly or indirectly become the purchaser of any of the property of his testator or intestate, at a sale made by him, upon the complaint of any person interested in the estate, and service thereof, and of citation on such executor or administrator, such sale shall be declared void by the County Judge, and such executor or administrator decreed to hold the property so purchased in trust as assets of the estate. Nor shall it be lawful for any executor or administrator, either directly or indirectly, to purchase for his own use any claim against the estate he represents; and if any executor or administrator should purchase any claim, upon the complaint in writing of any one interested in the estate, and service thereof with a citation on such executor or administrator, he shall be decreed by the County Judge to hold such claim in trust for the use of the estate, and he shall only be entitled to receive from the estate the amount he shall prove to have been paid by him therefor, such amount to be paid pro rata with other creditors of an equal degree.

Sec. 87. Whenever an executor or administrator sells property of the estate he represents on a credit, either under the direction of the will of the testator or under an order of the County Judge, he shall take the note of the purchaser for the amount of his purchase, with good personal security; and if land has been sold he shall also take a mortgage

upon the property sold to secure the payment of the purchase money; provided, however, that said mortgage shall not be taken until the sale of said land shall have been approved by the court. And if the executor or administrator shall neglect to take such note, security and mortgage, and file the same for record before delivery of the deed, he and the sureties on his bond shall be liable, at the suit of any person interested in the estate, for the use of the estate for the amount of such sales; and whenever any executor or administrator shall rent or hire any property of his testator or intestate on a credit under the provisions of this act, and all notes taken for lands sold by an administrator or executor shall hold the vendor's lien on the land sold against all persons having notice, expressed or implied, in favor of the estate, whether the mortgage be recorded or not; he shall take the note of the person hiring or renting such property for the amount of the hire or rent, with good personal security, and if he shall fail to take such notice (note) and security, he and his sureties shall in like manner be liable for the amount thereof.

Sec. 88. The debts due from an estate shall be paid by the executor or administrator in the following order: First, funeral expenses and expenses of last sickness; second, all expenses of administration, including the allowance that may be made under the provisions of the fifty-sixth and fifty-seventh sections of this act, and the expenses incurred in the preservation, safe keeping and management of the estate; third, debts secured by mortgage, or having a lien, whether judgment or execution or otherwise, so far as the same can be paid out of the proceeds of the property subject to such mortgage or lien, and when more than one of such mortgages and liens, or any one of them, exists upon the same property, the oldest shall be first paid; fourth, all other debts; and no preference shall be given to debts secured by mortgage, or having a lien by judgment, execution or otherwise, further than regards the property subject to such mortgage or lien. When there is a deficiency of assets, debts of the fourth class shall be paid only pro rata, and no executor or administrator shall be allowed to pay any claims of the fourth class, whether the estate is solvent or insolvent, except with their pro rata amount of the funds of the estate that have come to hand; provided, that nothing in this section shall be construed to in any way impair or defeat the vendor's lien on the homestead or any other land, or any lien held by mechanics for work and material furnished in improvements on real estate, or any landlord's liens for rents and advances, and the lien for taxes due thereon; but if the estate is solvent the cost of enforcing the lien only may be paid out of the proceeds of the property on which the lien existed.

Sec. 89. Executors and administrators, whenever they have funds in their hands belonging to the estate they represent, shall pay: First, the funeral expenses and expenses of last sickness; second, expenses of administration, including the allowances that may be made under the provisions of the fifty-sixth and fifty-seventh sections of this act, and the expenses incurred in the preservation, safe-keeping and management of the estate, when such claims have been allowed and approved or established; and if they shall fail or refuse so to do when required by the holder of such claims, the person holding any such claim may obtain an order from the County Judge at a regular term of the court, directing such payment to be made, upon making proof that such executor or administrator has funds of the estate in his hands sufficient to make such payment, and fails or refuses to make it; provided, such executor

or administrator shall have first been cited on the complaint of the holder of such claim, to appear and show cause why such order should not be made.

Sec. 90. Whenever any executor or administrator shall have in his hands the proceeds of a sale that has been made for the satisfaction of a mortgage or other lien, and such proceeds or any part thereof are not required for the payment of the expense of enforcing said lien in case the estate is insolvent, any debts against the estate that have a preference over such mortgage or other lien, it shall be the duty of such executor or administrator immediately to pay over such proceeds, or so much thereof as may not be required for the payment of the expense of enforcing said lien in case the estate is insolvent; any debts against the estate that have a preference over such mortgage or other lien to the creditor or creditors having a right thereto; and if any executor or administrator shall fail or refuse so to do, such creditor or creditors, upon proof thereof, may obtain an order from the County Judge, in like manner as is provided in the preceding section, directing such payment to be made; and in case of the sale of mortgaged property to satisfy the mortgage there be not money enough to pay the mortgage debt in full, then the balance unpaid shall stand as any other claim against the estate, to be paid in due course of administration.

Sec. 91. Upon the return of the exhibit mentioned in the preceding sections of this act, if it shall appear therefrom or by any other evidence that the estate is solvent, taking into consideration as well the claims presented before the expiration of twelve months from said granting of letters testamentary or of administration on which suit has been or can yet be instituted, as those so presented, allowed and approved, or established by judgment, and that the executor or administrator has in his hands sufficient funds for the payment of all the aforesaid claims, it shall be the duty of the County Judge to order immediate payment to be made of all the claims allowed and approved, or established by judgment. If he has funds in his hands, but if not sufficient for the payment of all the said claims, or if the estate be insolvent and he has any funds in his hands, it shall be the duty of the County Judge to order such funds to be applied to the payment of all claims having a preference, in the order of their priority, if they or any of them be still unpaid, and then to the payment pro rata of the other claims allowed and approved or established; taking into consideration also the claims that were presented within the twelve months, and in suit, or on which suit may yet be instituted.

Sec. 92. Claims for money against the estate of a deceased person, which may be presented to the executor or administrator after the expiration of twelve months from the original grant of letters testamentary or of administration, and allowed by him and approved by the County Judge, or established by suits, shall be paid by the executor or administrator at any time before the estate is finally closed, when he has funds of the estate in his hands over and above what may be sufficient to pay all debts of every kind against the estate that were presented within the twelve months and allowed or approved or established by suit, or that may be so established, and an order for the payment of any such claim, upon proof that the executor or administrator has such funds, may be obtained from the County Judge, in like manner as is provided in this act for creditors to obtain orders for payment.

Sec. 93. At the third regular term of court after the expiration of

twelve months from the original grant of letters testamentary or of administration, or at any term of the court after that, any person interested in the estate may, by a complaint in writing, filed in the County Court, cause the executor or administrator to be cited to appear at a regular term of the court and make an exhibit in writing, under oath to the court, setting forth fully in connection with the previous exhibits, the condition of the estate he represents; and if it shall appear to the court by said exhibit or by other evidence that such executor or administrator has any funds of the estate in his hands subject to distribution among the creditors of the estate, it shall be the duty of the County Judge to order the same to be paid out to them according to the provisions of this act, or any executor or administrator may voluntarily present such exhibit to the court, and if he has any of the funds of the estate in his hands subject to distribution among the creditors of the estate, a like order shall be made.

Sec. 94. At any time after the first term of the court, after the expiration of twelve months from the original grant of letters testamentary or of administration, the heirs, devisees or legatees of the estate, or any of them, may, by their complaint in writing, filed in the County Court, cause the executor or administrator, and the heirs, devisees or legatees of the estate to be cited to appear at a regular term of the court, and show cause why a partition and distribution should not be made among the heirs, devisees or legatees of the residue of the estate, if any there be after retaining in the hands of the executor or administrator a sufficient portion thereof to pay all debts of every kind against the estate that have been allowed and approved or established by suit, or that have been rejected by the executor or administrator, or not approved by the County Judge and may yet be established. And if it shall appear to the County Judge after the service of such citation that there is any such residue of the estate, he shall order it to be so partitioned and distributed.

Sec. 95. When all the debts known to exist of every kind against the estate of a deceased person have been paid, or when they have been paid so far as the assets of the estate in the hands of the executor or administrator will permit, the executor or administrator of such estate may present his account to the court, verified by affidavit, for settlement; or the County Judge shall cause him to be cited to present such account, either of his own motion or on the complaint of any person interested in the estate. Upon the presentation of such account it shall be the duty of the County Judge, either in term time or in vacation, to order at least twenty days' notice to be given by publication in a newspaper, if there be one printed in the county, if not, then by posting such notice at the court-house and at two other public places in the county for at least twenty days. Such notice shall state the presentation of said account, the term of the court when it will be acted on, and shall require all persons interested to appear and contest said account if they see proper. The County Judge may order such other notice to be given as he shall deem expedient. At the term of the court named in such notice, or at some subsequent term to which the same may be continued, upon proof being made that notice has been given in the manner required by this act, and the order of the County Judge, it shall be his duty, after examining said account with all the exceptions thereto, and hearing the evidence that may be offered in support of or against said account and exceptions, to re-state said account, if necessary, and to

audit and settle the same; and, upon the settlement of said account, if there is none of the estate remaining in the hands of the executor or administrator, he shall be discharged from his trust by an order of the County Judge; but if there is any of the estate remaining in the hands of the executor or administrator, and the heirs, devisees or legatees of the estate, or their assignees, or either or any of them, are present or represented in court, it shall be the duty of the County Judge to order a partition and distribution of the estate to be made among them, upon satisfactory proof being made that they are entitled to receive it.

Sec. 96. Upon the settlement of the account of any executor or administrator, as provided for in the preceding section, if the heirs, devisees or legatees of the estate, or their assignees, or either or any of them, do not appear or are not represented in the court, and there are any funds of such estate remaining in the hands of the executor or administrator, it shall be the duty of the County Judge to order the same to be paid over to the Treasurer of the State; and if there shall be any property of the estate that has not been sold, or any debts due the estate that may be collected, it shall be the duty of the County Judge to order such property to be sold on a credit of twelve months, and such debts to be collected; and at the first term of the court after the expiration of twelve months after such sale, and every six months thereafter, while the estate remains under the control of such executor or administrator, it shall be his duty to render to the court a full exhibit of the condition of such estate, verified by affidavit. And whenever there shall be any funds of the estate in the hands of the executor or administrator, it shall be the duty of the County Judge to order the same to be paid to the Treasurer of the State; provided, however, that while such estate, or any portion thereof, remains under the control of the executor or administrator, the heirs, devisees or legatees, or their assignees, or either or any of them, may obtain from the County Judge, at a regular term of the court, an order to have the same partitioned and distributed among them according to their respective interests in the same, upon causing the executor or administrator to be cited, and making satisfactory proof to the court of their right to the same; and whenever such estate shall have been so partitioned and distributed and delivered over to the persons entitled thereto, or when the debts due such estate have been collected, so far as there is a reasonable prospect of collecting them, and the proceeds paid over to the Treasurer of the State, as herein required, such executor or administrator shall be finally discharged from his trust by an order of the County Judge, entered at some regular term.

Sec. 97. Whenever an order shall be made by the County Judge for an executor or administrator to pay over any funds to the Treasurer of the State, under the provisions of this act, it shall be the duty of the Clerk of the Court in which such order may be made to transmit to said Treasurer, by mail, a certified copy of such order within one month after said order shall have been made. Whenever the Clerk mails such copy he shall take from the postmaster with whom it is mailed a certificate stating that such certified copy was mailed in his office, directed to the Treasurer of the State, at the seat of Government of this State, and the date when it was mailed; which certificate shall be recorded in the minutes of the court. And any clerk who shall neglect to transmit a certified copy of such order within the time prescribed, and to take such certificate and have it so recorded, shall be liable to a penalty of one hundred dollars, to be recovered by an action in the name of the State,

before any Justice of the Peace of the county, on the information of any citizen of the county, one-half of which penalty shall be paid to the informer and the other half to the State.

Sec. 98. Whenever any executor or administrator shall pay over to the Treasurer of the State any funds of the estate he represents, under the provisions of this act, he may take from such treasurer a receipt for such payment, with his official seal attached, and file the same, and have it recorded on the minutes of the court by which such funds were ordered to be paid, and a certified copy of such record shall be evidence of such payment.

Sec. 99. Whenever any funds of an estate shall have been paid to the Treasurer of the State, under the provisions of this act, any heir, devisee or legatee of such estate, or their assignees, or either or any of them, may recover the portion of such funds to which he or she would have been entitled, if the same had not been so paid to the Treasurer. Such recovery may be had in a suit against said Treasurer, before any court of competent jurisdiction in the county where the letters testamentary or of administration were granted; but in any such suit the plaintiff shall be liable for all costs of court; and in all cases where any funds belonging to the estate of a deceased person have heretofore been paid into the Treasury of the State, or when any title papers belonging to any such estate have been deposited with the Comptroller, such funds or title papers may be recovered in like manner by the person or persons who would have been entitled thereto, if the same had not been so paid over or deposited.

Sec. 100. Whenever any executor or administrator shall fail to pay to the Treasurer of the State any funds of the estate he represents that he has been ordered by the County Judge so to pay, within three months after such order has been made, such executor or administrator shall be liable to pay, out of his own estate, to the State Treasurer, damages thereon at the rate of five per cent. per month for each month he may neglect to make such payment after the three months from such order. The Treasurer of the State shall have the right, in the name of the State, to apply to the County Judge of the court in which such order was made to enforce the payment of such funds and damages, if any have accrued; and it shall be the duty of the County Judge to enforce the payment in like manner as other orders of payment are enforced by him; or the said Treasurer shall have the right to institute suit, in the name of the State, against such executor or administrator and the sureties on his bond for the recovery of the funds so ordered to be paid, and damages, if any have accrued; which suit may be instituted in any court of competent jurisdiction in the county where the letters testamentary or of administration were granted.

Sec. 101. In all cases where an order shall have been made by any County Judge under the provisions of this act for an executor or administrator to pay over money to any person other than the Treasurer of the State, and such executor or administrator shall neglect to make such payment when it is demanded by the person entitled thereto, his agent or attorney, such executor or administrator shall be liable on his official bond to the person in whose favor such order of payment was made for damages upon the amount he shall so neglect to pay, at the rate of ten per cent. per month for each and every month he shall so neglect to make such payment after the same was so demanded; such damages to be recovered by suit before any court having competent jurisdiction

against said executor or administrator and the sureties on his official bond.

Sec. 102. All applications for the partition and distribution of an estate under the provisions of this act shall be in writing, and shall be filed with the Clerk of the court to which the application is made. Upon the filing of any such application, it shall be the duty of the Clerk to issue a citation, returnable to some regular term of the court, which citation shall state the name of the person whose estate is sought to be partitioned and distributed, the term of the court to which such citation is returnable, and shall require all persons interested in the estate to appear and show cause why such partition and distribution should not be made; such citation shall be personally served by leaving a copy thereof with each person entitled to a share of the estate who is known and is a resident of this State, and if there be any persons so entitled who are not known, or who are not residents of this State, such citation shall be published for at least four successive weeks in some newspaper printed in the county, if there be one; if not, then it shall be published in like manner in one of the nearest newspapers published in the State. A copy of such publication and the affidavit of the publisher or printer attached thereto stating that it was so published shall be evidence of the publication.

Sec. 103. At the return term of any such citation as is provided for in the preceding section, or at some succeeding term to which the application may be continued by the court, if it shall appear that such citation has been served and published as required by law, the court shall proceed to ascertain who are the persons by law entitled to partition and distribution, and their respective shares; and if there are any persons so entitled who are known and are minors, and have no guardian in this State, or whose guardians are also entitled to a portion of such estate, the court shall appoint a guardian ad litem to represent them in the partition of the estate; and if there are any persons so entitled who are not known, or not residents of this State, and no person appears who is authorized to represent them, the court shall appoint an attorney to represent them in the partition of the estate, after which the court shall proceed to ascertain whether advancements have been made to any of the persons so entitled, their nature and value, and require the same to be placed in hotchpotch as required by the law governing descents and distributions, and also to ascertain what estate is liable to partition and distribution; the court shall then enter a decree which shall state the name and residence, if known, of each person entitled to a share of the estate, specifying those who are known to be minors, the names of their guardian or guardians ad litem, the name of the attorney appointed to represent those who are unknown, or are not residents of this State; the decree shall also state the proportional part of the estate to which each is entitled, and shall contain a full description of all the estate to be distributed: if the estate to be distributed shall consist only of money or debts due the estate, or both, the court shall fix the amount to which each is entitled, and order the payment and delivery thereof by the executor or administrator; but if the estate do not consist entirely of money or debts due the estate, or both, the court shall appoint three or more discreet persons as commissioners to make a partition and distribution of the estate, and shall order a writ of partition to issue commanding them to proceed forthwith to make such partition and distribution in accordance with the decree of the court, a copy of which

shall accompany such writ; and also commanding them to make due return of said writ, with their proceedings under it, at some term of the court to be named in the writ.

Sec. 104. It shall be the duty of the commissioners of partition under this act to make a fair, just and impartial partition and distribution of the estate, in the following order: First, the land or other property by allotment to each distributee of a part in each parcel, or of parts in one or more parcels, or of one or more parcels, either with or without the addition of a part or parts of other parcels, as shall be most for the interest of the distributees; provided, the said real estate is capable of being so divided without manifest injury to all or any of the distributees; and the said commissioners shall have power, if they think it necessary, to call to their aid one or more well qualified surveyors to run the lines of any lands, and also divisional lines thereof. If the real estate is not capable of a fair, just and equal division in kind, but may be made so by allotting to one or more of the distributees a proportion of money or other personal property to supply the deficiency or deficiencies, the commissioners shall have power to make as near as may be an equal division of the real estate, and supply the deficiency of any share or shares from the money or other property. The commissioners shall proceed to make a like division in kind, as near as may be, of the money and other personal property, and shall determine by lot, among equal shares, to whom each particular share shall belong.

Sec. 105. When, in the opinion of the Commissioners, the whole or any portion of any estate is not capable of a fair and equal division among the distributees, the said Commissioners shall make a special return of such property to the court, with the value thereof duly appraised by them. Upon such return being made to the court, any one or more of the distributees, at a regular term of the court, by the payment to the executor or administrator of the appraised value of the property so returned as incapable of division, or on the execution of his or their obligations with one or more good and sufficient sureties in favor of each of the other distributees for their share of the appraised value of such property, payable at such time, not exceeding twelve months from the date thereof, as the court may designate; provided, the court may think it for the interest of the distributees to allow a credit, shall have the right to take the said property. Should any one or more of the distributees take the said property as aforesaid, it shall be the duty of the court to enter a decree stating the facts, and on the entry of such decree the property shall vest as fully and absolutely in the person or persons taking the same as the deceased was vested therewith; provided, nevertheless, that when obligations are executed as aforesaid, a lien shall exist upon such property by operation of law, to secure the payment of such obligations; provided, also, that if any of the distributees shall file in the court his exception to the appraisement of the Commissioners before any of the distributees shall have so taken such property, a new appraisement of said property may be made by order of the court. If no distributee take the said property as aforesaid, the court shall order the sale of said property, either for cash or on a credit, as may be most for the interest of the distributees; and at such sale, if any distributee shall bid off any of said property he shall be required to pay or secure, as the case may be, only such amount of his bid as may exceed the amount of his share of such property; and the proceeds of sale, when collected, shall be distributed by the court among those entitled thereto.

Sec. 106. Said Commissioners having divided the whole or any part of the estate, shall make to the court a report in writing, subscribed and sworn to by them, containing a statement of the property divided by them, and also a particular description of the property allotted to each distributee and its value. And if it be real estate that has been divided, said report shall contain a general plat of such land, with the divisional lines plainly set down and the number of acres in each share. Upon the return of such report it shall be the duty of the court, at some regular term, to examine said report carefully, and if it be merely informal to cause said informality to be corrected; and if such division shall appear to have been fairly made according to law, and no valid exceptions are taken to it, the court shall approve it and order it to be recorded, but if said division shall not appear to have been so made, or any valid exceptions are taken to it, the court shall set aside said report and division and order a new partition to be made.

Sec. 107. When any portion of the estate to be partitioned lies in a distant county and can not be fairly partitioned without a view thereof, and it is inconvenient for the Commissioners to go and examine such property, they may report such facts to the County Judge in writing, whereupon he may at some regular term of the court, if satisfied that the said property can not be conveniently divided, or that its sale would be more advantageous to the distributees, order a sale thereof for cash or on a credit of not more than twelve months, at his discretion; and when the proceeds of such sale shall have been collected they shall be distributed by him among those entitled thereto; but if no such proof be made, three or more Commissioners may be appointed in each county where any portion of the estate so reported is situated, and the same proceedings shall be had thereon as is provided in this act for Commissioners to make portion; and provided, that whenever any testator has by will instructed that no action be had in the courts in the settlement of his estate, and said testator does not in said will distribute his estate or provide a means of partitioning the same, the executor may, if he desires, file his final account and vouchers as provided in this act for administrators, in the court of the county in which the will was probated, and ask partition and distribution of the estate, and the same shall be partitioned and distributed in the manner herein provided for in case of ordinary administration.

Sec. 108. When any husband or wife shall die, leaving any common property, the survivor may at any time after letters testamentary or of administration have been granted, and an inventory of the estate of the deceased has been returned, make application to the court from which such letters were granted for a partition of such common property; and if he or she shall execute and deliver to said County Judge an obligation with good and sufficient sureties, payable to and approved by said County Judge, for an amount equal to the value of his or her interest in such common property, conditioned for the payment of one-half of all debts existing against such common property, then the County Judge shall proceed to make a partition of said common property into two equal moieties, one to be delivered to the survivor and the other to the executor or administrator of the deceased; and all the provisions of this act respecting the partition and distribution of estates shall apply to any partition made under the provisions of this section, so far as the same may be applicable; and whenever such partition may be made a lien shall exist upon the portion of such survivor to secure the payment

of the obligation he may have given as aforesaid; and until a partition shall be applied for as herein provided, the executor or administrator of the deceased shall have the right and it shall be his duty to recover possession of all such common property, and hold the same in trust to be administered for the benefit of the creditors and others entitled thereto, under the provisions of this act. After such partition any creditor of said common property may sue in his own name on such obligation, and shall have judgment thereon for the one-half of such debt as he may establish, and for the other half he shall be entitled to be paid by the executor or administrator of the deceased.

Sec. 109. In all cases where Commissioners to make partition are appointed under this act, the report of any three of them shall be sufficient. All such commissioners shall receive two dollars each for every day they may be engaged, and all their reasonable expenses shall be paid them.

Sec. 110. In any case where the County Judge shall appoint a guardian ad litem for minors, or any attorney to represent the person absent from the State or unknown, under the provisions of this act, if such guardian ad litem or attorney shall neglect to attend to the duties of such appointment, the County Judge shall appoint others in their places by an order entered on the minutes of [the] court, and such guardian ad litem and attorneys shall be allowed by the County Judge a reasonable compensation for their services, which shall be paid out of the estate of the person they represent, and the County Judge may order execution to issue for the same.

Sec. 111. That all expenses incurred in the partition of estates shall be paid by the parties interested in the partition, each party paying in proportion to the share he may receive. The proportion of the estate allotted to each distributee shall be liable for his or her portion of the expenses, and if not paid the court shall have power to order execution therefor in the names of the persons entitled thereto.

Sec. 112. Any person or persons having a joint interest with the estate of a decedent in any property, real or personal, may make application to the County Court from which letters testamentary or of administration have been granted on said estate, to have a partition thereof; whereupon the court shall proceed to make a partition of said property between the applicant or applicants and the estate of the deceased; and all the rules and regulations contained herein in relation to the partition and distribution of estates shall govern partitions under this section, so far as the same may be applicable.

Sec. 113. When the report of any commissioners to make partition shall have been approved and ordered to be recorded, the court shall order the executor or administrator to deliver to the distributees their respective shares of the estate on demand, including all the title deeds and papers belonging to the same. If any distributee be a minor, his share shall be delivered to his guardian. If any minor distributee resident of the State of Texas shall have no guardian, the executor or administrator shall retain his share until a guardian shall be appointed; and he shall be allowed by the court reasonable compensation for taking care of the same. If any executor or administrator shall neglect to deliver to the person entitled thereto, his agent or attorney, when demanded, any portion of an estate so ordered to be delivered, such executor or administrator shall be liable to pay out of his own estate to the person so entitled damages on the amount of his share at the rate

ten per cent. per month for each and every month he shall so neglect to deliver such share after such demand, which damages may be recovered by suit before any court of competent jurisdiction.

Sec. 114. If any portion entitled to a portion of an estate shall not demand the same from the executor or administrator within six months after the report of the commissioners of partition has been approved and ordered to be recorded, the County Judge shall order so much of said portion as may be in money to be paid to the Treasurer of the State, and such portion as may be in other property the County Judge shall order the executor or administrator to sell on such terms as he may think best, and when the proceeds of such sale are collected he shall order the same to be paid to the Treasurer of the State; in all such cases allowing to the executor or administrator reasonable compensation for his services.

Sec. 115. The community property of the husband and wife shall be liable for all the debts contracted during marriage, except in such cases as are specially exempted by law. And in the settlement of community estates, it shall be the duty of the survivor, executor or administrator to keep a separate and distinct account of all the community debts allowed or paid in the settlement of such estates.

Sec. 116. Where the wife dies, her husband surviving, administration is unnecessary, except as to any separate estate which may have belonged to her. The husband continues to have the same power of disposition over the community property which he possessed during the continuance of marriage; but he shall be required to return an inventory and appraisement of all such property, and file a bond, signed by two good and sufficient sureties to be approved by and payable to the County Judge, in an amount equal to the value of the whole community property, to the effect that he will faithfully administer the same, and pay over one-half of the surplus, after the payment of the debts with which the whole is properly chargeable, to such person or persons as shall be entitled to receive it. And he shall be liable in such case to be called to account at any time after one year from the date of the bond, which bond shall be suable, recoverable, and in every other respect the same as the bond of the administrator. The surviving wife may retain the exclusive management and control of the community property of herself and her deceased husband in the same manner, and subject to the same rights, rules and regulations as provided above, until she may marry again; but upon a second marriage she shall cease to have such control and management of said estate, or the right to dispose of the same, as above provided; and said estate shall be subject to administration as in other cases of deceased persons' estate.

Sec. 117. Any person capable of making a will may so provide, by his or her will, that no other action shall be had in the County Court, in relation to the settlement of his or her estate, than the probating and registration of his or her will, and the return of an inventory of the estate; and in all such cases any person having a debt or claim against said estate may enforce the payment of the same by suit against the executor of such will, and when judgment is recovered against the executor, the execution shall run against the estate of the testator in the hands of such executor; provided, that no such executor shall be required to plead to any suit brought against him for money until the expiration of twelve months from the date of the probate of such will. But in cases where no bond and security has been required of such ex-

ecutor at the time of the probate of such will, any person having a debt, claim or demand against said estate, to the justice of which oath has been made by himself, his agent or attorney, or any person having an interest therein, whether in person or as representative of another, may, by complaint filed in the court where such will was probated, cause such executor to be cited to appear before such court, at some regular term, and on making it appear to the satisfaction of said court that such executor is wasting or misapplying said estate, and that thereby said creditor may probably lose his debt, or such person his or her interest in the estate, it shall be the duty of said court to order such executor to give bond, with two or more good and sufficient sureties, for an amount equal to double the full value of said estate, to be approved by and payable to the County Judge of the county, conditioned that said executor will well and truly administer such estate, and that he will not waste, mismanage or misapply the same; which bond may be recovered upon as other bonds given by executors and administrators; and should such executor fail to give such bond within ten days after the order requiring him to do so, then it shall be the duty of the County Judge to remove him from the executorship of such estate, and to appoint some competent person in his stead, whose duty it shall be to administer said estate according to the provisions of such will, and who, before he enters upon the administration of said estate, shall be required to give such bond as herein above provided for. And if such will does not distribute the entire estate of the testator, or provide a means for partition of said estate, the executor shall have the right to file his final account in the court in which the will was probated, and ask partition and distribution of the estate, and the same shall be partitioned and distributed in the manner provided herein for the partition and distribution of estates administered according to the provisions of this act.

Sec. 118. It shall be the duty of the County Judge of any county from which any county or part thereof has been or may hereafter be taken, to transmit all original papers relating to the settlement of estates of deceased persons, who were, at the time of their decease, residents of that part of the territory of the county which has been or may hereafter be taken to form any new county, to the Probate Court of such new county, upon the petition of any executor or administrator, or guardian, or a majority of the heirs of any such estate; and he shall also transmit, with such original papers, a transcript, certified under the seal of the court, of the records of all proceedings had in relation to such estates in his court; provided, that at the time of filing such petition the party filing it shall pay all fees due on account of such estate.

Sec. 119. Previous to the transmission of any such original papers, in the manner provided for in the preceding section, the Judge to whom such petition is presented shall cause a registry of all such original papers, as have not been recorded, to be made in his office, for which the same fee shall be allowed as is allowed for other recording.

Sec. 120. In all cases where the papers and proceeding relating to the settlement of an estate shall be transmitted to any court in the manner provided for in this act, such estate shall be proceeded in and settled in the probate court of such county in like manner as if the settlement of such estates had been originally commenced in such county, and the transcript of the record transmitted in the manner provided

for in this act shall have the same force and effect in evidence as the record itself might or could have.

Sec. 121. Executors and administrators shall be entitled to receive, and may retain in their hands, five per cent. upon all sums they may actually receive in cash, and the same upon all sums they may pay away in cash, in the course of their administration; provided, that no commissions shall be allowed for money received which was on hand at the time of the death of the testator or intestate, nor for paying out money to the heirs and legatees as such. All reasonable expenses incurred by an executor or administrator in the preservation, safe-keeping and management of the estate, and all reasonable attorney's fees that may be incurred in the course of the administration, shall be allowed by the County Judge, on proof that there was a necessity therefor.

Sec. 122. Whenever any executor or administrator shall file in the court receipts showing that he has disposed of any portion of the estate, under the provisions of this act, the court shall order the same to be recorded; and whenever he shall have so filed receipts showing that all of the estate has been disposed of by him, under the provisions of this act, he shall, provided the court approve said receipts and the account filed, be finally discharged from his trust by the County Judge; and provided further, when any person holding an allowed and approved claim against the estate does not come forward to receive payment for the same, the administrator or executor may deposit the money for the payment of said claim with the Clerk of the County Court, and take his receipt therefor.

Sec. 123. Any person capable of making a will may so provide by his will that no other action shall be had in the County Court in relation to the settlement of his estate than the probate and registration of his will and the return of an inventory of the estate; but in all such cases any person having a debt against said estate may, by complaint in writing, filed in the court where such will was proved, cause all the persons entitled to any portion of such estate under the will, or as heirs at law, to be cited to appear before such court, at some regular term, and execute an obligation, with two or more good and sufficient sureties, for an amount equal to the full value of such estate, to be ascertained by the inventory, such obligation to be payable to the County Judge, and conditioned that the persons who execute the obligation shall pay all debts that may be established against such estate, in the manner herein provided; and on the return of such citations served, unless such persons so entitled to any portion of the estate, or some of them, or some other persons for them, shall execute such obligation to the satisfaction of the County Judge, such estate shall be settled under the direction of the court as other estates are required to be settled; but if such obligation shall be executed it shall be filed and recorded in said court, and no other action shall be had in said court in relation to such estate. All costs of such proceedings shall be paid by the persons so entitled to such estate, according to their respective interests in it. Every creditor of such estate shall have the right to sue on such obligation, and shall be entitled to judgment thereon for such debt as he may establish against the testator by a verdict of the jury in such suits, or such creditors may have their action against those in possession of the estate.

Sec. 124. At any time after the return of the inventory of the estate

of a deceased person, any one entitled to a portion of said estate, as heirs, devisee or legatee, or his or her guardian if he or she be a minor, may by a complaint in writing filed in the court where such inventory has been returned, cause the executor or administrator of the estate to be cited to appear at some regular term of the court and render an exhibit, under oath, of the condition of such estate; and on the return of such citation served, the person so entitled to such estate, or any of them, or any persons for them, may execute and deliver to the County Judge an obligation payable to him, with two or more good and sufficient sureties, to be approved by the County Judge, for an amount at least equal to double the appraised value of the estate as ascertained by the inventory, conditioned that the persons who execute such obligation shall pay all the debts against the estate not paid that have been allowed by the executor or administrator and approved by the County Judge, or that have been established by suit against the executor or administrator, or that may be established against the estate by suit in the manner herein provided; and may pay to the executor or administrator any balance that may be decreed to be due to him on his exhibit, in obedience to said citation; whereupon such obligation shall be filed and recorded in said court, and the court shall on the application of any of the persons so entitled to any portion of the estate, cause a partition and distribution of such estate to be made among the persons entitled thereto, in accordance with the provisions of this act respecting the partition and distribution of estates; and a lien shall exist on all of said estate in the hands of the distributees to secure the ultimate payment of the aforesaid obligation. Any creditor of such estate whose claim is yet unpaid and has been allowed by the executor or administrator previous to the filing of such obligation, and approved by the County Judge, or established by suit against the executor or administrator, previous to the filing of such obligation, shall have the right to sue on such obligation in his own name, and shall be entitled to judgment thereon for the amount of his claim; or any other creditor of such estate whose claim is not barred by the laws of limitation shall have the right to sue on such obligation, and shall be entitled to judgment thereon for such debt as he may establish against the estate by a verdict of the jury in such suit; or any of said creditors may sue the distributee, but no one of them shall be liable beyond his just proportion, according to the estate he may have received in the distribution.

Sec. 125. When a person dies, leaving a lawful will, all of his estate devised or bequeathed by such will shall vest immediately in the devisees or legatees; and all the estate of such person not devised or bequeathed shall vest immediately in his heirs at law; but all of such estate, whether devised or bequeathed or not, except such as may be exempted by law from the payment of debts, shall still be liable and subject in their hands to the payment of the debts of such testator; and whenever a person dies intestate all of his estate shall vest immediately in his heirs at law, but with the exceptions aforesaid shall still be liable and subject, in their hands, to the payment of the debts of the intestate. But upon the issuance of letters testamentary or of administration on any such estate, the executor or administrator shall have a right to the possession of the estate as it existed at the death of the testator or intestate, with the exception aforesaid; and it shall be his duty to recover possession of and hold such estate in trust, to be disposed of under the provisions of this act.

Sec. 126. When complaint shall be made in writing to any County Judge that any person has the last will of any testator or testatrix, or any papers belonging to the estate of a testator or intestate, said County Judge shall cause said person to be cited to appear before him, either in term time or vacation, and show cause why he should not deliver such will to the court for probate, or why he should not deliver such papers to the executor or administrator, and upon the return of such citation served, unless such will or papers are so delivered, or good cause be shown to the court for not delivering the same, the County Judge, if satisfied that such person had such will or papers at the time of the complaint being filed, may cause him to be arrested and imprisoned until he shall so deliver them.

Sec. 127. All the provisions in this act relative to an executor or administrator shall apply and extend to an executrix or administratrix, or executors or administrators respectively, unless expressly provided for; and whenever any party in the singular number or a male party is mentioned, the rule shall apply to a female, or to two or more having a joint interest, or jointly concerned, applying or called upon, so far as the rule can with propriety apply, or so far as is not otherwise directed.

Sec. 128. Any one interested in the estate of a deceased person may at any time within two years after the settlement of the County Judge of any account of the executor or administrator of such estate, have the same revised and corrected by the District Court of the county in which the letters of such executor or administrator were granted, upon making proof before such District Court that there was any error or fraud in such account or settlement; provided, that he shall first obtain from the Clerk of the court in which such account was settled a transcript of all the papers relating to such account and settlement, and file the same with a petition in the office of the Clerk of said District Court, and cause such executor or administrator, or his legal representatives, to be cited as in other suits in said District Court.

Sec. 129. All decisions, orders, decrees and judgments of the County Court under the provisions of this act, shall be entered on the records of the court by the Clerk at the time such decision, order, decree or judgment shall be made or rendered.

Sec. 130. Any person who may consider himself aggrieved by any such decision, order, decree or judgment, shall have the right to appeal to the District Court of the county; provided, he shall, within fifteen days after such decision, order, decree or judgment shall have been made and rendered, filed with the Clerk of said Court a bond for costs and damages, with good and sufficient sureties, payable to the County Judge, in such sum as he shall require, and to be approved by said County Judge; conditioned that the appellant shall prosecute said appeal to effect, and perform the decision, order, decree, or judgment which the District Court shall make thereon, in case the cause shall be decided against him.

Sec. 131. Upon such appeal bond being filed in the Clerk's office, it shall be his duty immediately to make out a certified transcript of the proceedings in the case and transmit the same to the District Court.

Sec. 132. In case the Clerk of the County Court shall be unable, for want of time, to make out such transcript before the first day of the next term of the District Court of the county after such appeal is taken, then such transcript shall be transmitted to the next succeeding term of said court.

Sec. 133. In all cases where an executor or administrator shall neglect the performance of any duty required by this act, and shall be cited to appear before the court on account thereof, he and his sureties on his official bond shall be liable for all costs of such proceeding out of his own estate; and whenever an executor or administrator shall be removed for any of the causes set forth in this act, he and his sureties on his official bond shall be liable in like manner for all costs attending such removal.

Sec. 134. In all cases where a party shall file any application, complaint or opposition in the court, under the provisions of this act, and on the trial thereof he shall be defeated or fail in the object for which his application, complaint or opposition was filed, he shall be liable for all costs occasioned by the filing of his application, complaint or opposition.

Sec. 135. The County Judge shall have power to enforce obedience to all his lawful orders against executors or administrators, by attachment and imprisonment; provided, no such imprisonment shall exceed three days for any one offense, except in cases provided for in section one hundred and twenty-six of this act; he shall also have power to order the clerk to issue execution against the estate of an executor or administrator, in favor of any person to whom money has been ordered to be paid by such executor or administrator; such execution shall be made returnable in sixty days; shall be tested and signed by the Clerk, and sealed with the seal of the county, and may be directed to the Sheriff or other lawful officer of any county in the State; and all proceedings under such executions shall be governed by the laws regulating proceedings under executions issued from the District Court, so far as the same may be applicable.

Sec. 136. In all proceedings in the County Court arising under the provisions of this act, the depositions of witnesses may be taken and read in evidence, under the same rules and regulations as in the District Court, and all laws in relation to witnesses and evidence, which govern the District Court, shall apply to all proceedings in the County Court, under the provisions of this act, so far as they are applicable.

Sec. 137. In all cases, under the provisions of this act, where it is necessary to cite any person who is out of the limits of this State, and the manner of citing such person is not herein otherwise provided for, such person may be cited by publication in like manner as in suits in the District Court.

Sec. 138. Each Clerk of the County Court shall receive and file all applications, complaints, petitions and all other papers permitted or required to be filed in said courts under the provisions of this act, and shall endorse on each the date when it was filed, and sign his name to such endorsement; he shall issue all necessary notices, citations, writs and process from said court, without any order from the County Judge, unless such order is required by some provision of this act.

Sec. 139. Whenever complaint in writing and under oath shall be made to the County Judge by any person interested in the estate of a decedent, that the executor or administrator of such estate is about to remove the same, or any part thereof, out of the limits of this State, such County Judge shall have power to order a writ to issue, directed to any lawful officer of this State, commanding him to seize such estate, or any part thereof, and hold the same subject to such further order as the County Judge may make on such complaint; provided, that no such

writ shall issue unless the complainant shall give bond, with good and sufficient security, for such sum as the County Judge may require, payable to the executor or administrator, conditioned for the payment of all damages that may be recovered for the wrongful suing out of such writ.

Sec. 140. The County Judge of the several County Courts shall have like power to enforce all orders, decrees and judgments heretofore made and rendered in the Probate Court of their county, as they would have if such orders, decrees and judgments had been made or rendered by them under the provisions of this act.

Sec. 141. The rights, powers and duties of executors or administrators shall be governed by the principles of the common law, where the same do not conflict with the provisions of this act.

Sec. 142. In all cases where a County Judge may have been executor or administrator of an estate in the county where and at the time he was elected, or when a County Judge may wish to probate a will, and accept as the executor of the estate of a testator in the county where he officiates, or when he may be entitled to a distributive share of an estate that is to be settled in his court, any two of the County Commissioners shall have power to do all acts pertaining to the settlement, partition and distribution of such estates that might be done by the County Judge.

Sec. 143. There shall be begun and holden at the court-houses of the respective counties throughout the State a term of the County Courts on the third Monday in January, March, May, July, September and November of each year, for the transaction of all probate business provided for in this act.

Sec. 144. All proceedings in relation to the settlement, partition and distribution of estates of deceased persons, remaining unsettled in the District Courts of this State, shall be transferred to the County Court of the county having jurisdiction thereof, and shall be conducted and concluded under the provisions of this act.

Sec. 145. The executor or administrator, as soon as practicable after the appointment, shall sell, at public or private sale, all personal property belonging to the estate, except such bonds, securities and other personal property as may, in the opinion of the County Judge, be of a character not likely to waste or loss, and except property exempt from forced sale, specified legacies and personal property necessary to carry on a plantation or manufactory, giving such credit as he may deem most advantageous to the estate, not exceeding six months, and taking notes with one or more sufficient sureties, for the purchase money.

Sec. 146. If any testator direct his personal estate, or any part thereof, not to be sold, the same shall be reserved from sale, unless such sale be necessary for the payment of debts.

Sec. 147. The executor or administrator shall keep, or cause to be kept, a true account of the sales made, making a list thereof, specifying each article sold, the price for which it was sold, and the name of the purchaser, and shall annex to such list an affidavit, stating that it is a true account of the sales made by him at the time specified, and shall file it within thirty days after the sale. Such account shall be recorded after allowing one term for objections to be made.

Sec. 148. The law regulating sales under execution, so far as it relates to the advertisement and sale of personal property, and is not inconsistent with the provisions of this act, shall apply to the advertisement and

public sales of such property, by an executor or administrator, the executor or administrator being substituted for the Sheriff or Constable, the estate for the debtor and persons interested in the administration only for the creditors.

Sec. 149. The executor or administrator may sell any of the personal property of the estate at private sale, if it appear to him to be for the interest of the estate, but he shall be responsible for its being sold for a fair price, and shall make return of such sale in thirty days.

Sec. 150. If the executor or administrator shall represent to the court, on oath, that there is wild stock belonging to the estate which he is unable to collect or command, the court may order that the same be sold at public auction, without taking an inventory or appraisement thereof, on such credit as the court may deem reasonable, not exceeding six months, taking notes with good and sufficient securities for the purchase money.

Sec. 151. Such sales shall be advertised, made, returned and confirmed in the same manner as the sales of real property.

Sec. 152. Where personal service is required under any of the provisions of this act, it means that the party shall be cited in the same manner which is provided in like cases for the service of citation in the District Court in civil cases.

Sec. 153. That whenever the bond of any executor or administrator shall have been approved by the County Judge, the Clerk shall make out a true copy of said bond, duly certified under seal of his office, and deliver the same to the County Judge, who shall note thereon the day he received the same, to be taken care of by said Judge, and by him delivered to his successor in office; and in case the original may be destroyed by fire or otherwise, said copy shall be received in evidence as the original, and have the same force and effect.

Sec. 154. That all laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 155. That an imperative public necessity exists for the suspension of the constitutional rule requiring this bill to be read on three several days, and the fact that there being no laws in force regulating the proceedings pertaining to estates, creates an emergency requiring this act to go into effect immediately, it is therefore enacted that this act take effect and be in force from and after its passage.

Approved August 9, 1876.

Takes effect from its passage.

CHAPTER LXXXV.—An Act to change and define the times of holding the terms of the District Courts in the Sixth Judicial District of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That hereafter the terms of the District Courts of the Sixth Judicial District of the State of Texas shall be holden at the times hereinafter specified, to-wit: In the county of Fannin, on the third Monday of February and August, and may continue in session six weeks; in the county of Lamar, on the sixth Monday after the third Monday in February and August, and may continue in session seven weeks; in the county of Red River, on the thirteenth Monday after the third Monday in February and August, and may continue in session five weeks.

Sec. 2. That all writs and process returnable to said courts shall be returnable to the terms of said courts as herein defined, and all such

writs and process as have been issued, executed and returned, shall be as valid as if no change had been made in said courts by the passage of this act.

Sec. 3. That no inconvenience may result to the people of the said Sixth Judicial District by the change in time of holding the courts therein, a public necessity and emergency exist, that this act take effect and be in force immediately upon and after its passage, and it is therefore so enacted.

Approved August 11, 1876.

Takes effect from its passage.

CHAPTER LXXXVI.—An Act to define the Eighth Judicial District, and to fix the times of holding the courts therein.

Section 1. Be it enacted by the Legislature of the State of Texas, That the counties of Rains, Hunt, Delta, Hopkins, Kaufman and Rockwall, be, and the same are hereby constituted the Eighth Judicial District.

Sec. 2. That the District Court in and for said county of Rains be holden on the twelfth Mondays after the first Mondays in January and July, and continue in session two weeks; in the county of Hunt, on the first Mondays in January and July, and may continue in session five weeks; in the county of Delta, on the fifth Mondays after the first Mondays in January and July, and may continue in session two weeks; in the county of Hopkins, on the seventh Mondays after the first Mondays in January and July, and may continue in session five weeks; in the county of Kaufman, on the fourteenth Mondays after the first Mondays in January and July, and may continue in session four weeks; in the county of Rockwall, on the eighteenth Mondays after the first Mondays in January and July, and may continue in session one week.

Sec. 3. All process heretofore issued or served, returnable in any of the counties of said Eighth Judicial District as heretofore prescribed by law, shall be considered as returnable at the times herein prescribed; and all such process is hereby legalized and validated, as if the same had been made at the times herein prescribed.

Sec. 4. That all laws and parts of laws in conflict with this act, be and the same are hereby repealed.

Sec. 5. That an imperative public necessity and an emergency exists for the holding the courts in the Eighth Judicial District, in accordance with the provisions of this act, therefore this act shall take effect and be in force from and after its passage.

Approved August 11, 1876.

Takes effect ninety days after adjournment.

CHAPTER LXXXVII.—An Act to authorize sureties on the official bonds of county officers to require their principals in such bonds to give new bonds, and to provide for the giving of such new bonds in such cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That any surety on any official bond of any county officer in this State may apply to the County Commissioners' Court of the county to be relieved from his bond. And the Clerk of the County Court shall thereupon issue a notice to said officer, and a copy of the application, which shall be served upon said officer by the Sheriff or any Constable of the county; and upon the service of such notice, said officer so notified shall be prohibited from exercising the functions of his office, except to preserve any

records or property committed to his charge, and in case of Sheriffs and Constables, to keep prisoners, preserve the peace, and execute warrants for the arrest of persons charged with offenses; and said officer so notified shall give a new bond within twenty days from the time of receiving such notice, or his office shall become vacant.

Sec. 2. If a new bond be given and approved, the former surety or sureties shall be discharged from any liability for the misconduct of the principal, after the approval of such new bond.

Sec. 3. There being no law in force authorizing sureties on the official bonds of county officers, to obtain the relief provided for in this act, and justice to such sureties and the public good requiring that such provision should be made by law, a public necessity and emergency exist for the immediate passage of this law, and it is enacted that this act take effect and be in force from and after its passage.

Approved August 12, 1876.

Takes effect from its passage.

CHAPTER LXXXVIII.—An Act to amend an act entitled, "An Act prescribing the times of holding the District Courts in the Twelfth Judicial District and to attach certain counties therein named for judicial purposes," approved July 29, 1876.

Section. 1. Be it enacted by the Legislature of the State of Texas, That section one of the above entitled act be so amended as hereafter to read as follows, to-wit: "That the District Courts of the Twelfth Judicial District be holden at the times hereinafter stated, to-wit: in the county of Coryell on the first Monday in March and September, and may continue in session two weeks; in the county of Hamilton on the third Monday in March and September, and may continue in session one week; in the county of Comanche on the fourth Monday in March and September, and may continue in session one week; in the county of Brown on the fourth Monday after the first Monday in March and September, and may continue in session one week; in the county of Coleman on the fifth Monday after the first Monday in March and September, and may continue in session one week; in the county of Shackelford on the sixth Monday after the first Monday in March and September, and may continue in session one week; in the county of Stephens on the seventh Monday after the first Monday in March and September, and may continue in session one week; in the county of Young on the eighth Monday after the first Monday in March and September, and may continue in session one week; in the county of Jack on the ninth Monday after the first Monday in March and September, and may continue in session two weeks; in the county of Palo Pinto on the eleventh Monday after the first Monday in March and September, and may continue in session one week; in the county of Hood on the twelfth Monday after the first Monday in March and September, and may continue in session one week; in the county of Somerville on the thirteenth Monday after the first Monday in March and September, and may continue in session one week; in the county of Erath on the fourteenth Monday after the first Monday in March and September, and may continue in session one week; in the county of Eastland on the fifteenth Monday after the first Monday in March and September, and may continue in session one week." For judicial purposes the county of Reynolds is attached to Coleman

county; Callahan county to Eastland county; Throckmorton, Haskell and Jones counties to Shackelford.

Sec. 2. There being a public necessity for a change in the times of holding the Courts in said District, and the condition of the District renders it necessary that this act take effect and be in force from and after the fifteenth day of August, 1876, and it is so enacted.

Approved August 12, 1876.

Takes effect from August 15, 1876.

CHAPTER LXXXIX.—An Act to authorize the Commissioner of the General Land Office to appoint a Surveyor.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office is hereby authorized and required to appoint a competent Surveyor, whenever he may deem it necessary to establish the lines and corners, in accordance with the provisions of "An Act authorizing the disposition and sale of the University Lands," approved April 8, 1874.

Sec. 2. In view of the fact that the Commissioner of the General Land Office may need the services of said Surveyor at any time, an emergency exists for the immediate passage of this act, and it is therefore enacted that this act take effect and be in force from and after its passage.

Approved August 12, 1876.

Takes effect from its passage.

CHAPTER XC.—An Act to provide for supplying lost records in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That in any county of this State, where the record books of land, the records of said county have heretofore been burned, lost or destroyed, and there is in the hands of, or owned by any person or persons, a part, or a complete abstract of the records of deeds, bonds, mortgages, and other conveyances to lands recorded in said books, the County Commissioners' Court of said county is hereby authorized and empowered to purchase said abstract from the owner thereof, upon such terms and conditions as the said Commissioners' Court and said owners of said abstract may agree; provided, that the individual or individuals who made said abstract shall make an affidavit that said abstracts is a true and correct copy of the substance of the original record.

Sec. 2. In case of the purchase of any such abstract as hereinbefore provided, the same shall be turned over to the custody of the Clerk of the County Court, and shall become a part of the records of said County Court, and it is hereby made the duty of said Clerk to keep up and continue said abstract in the same form, in a well bound book, to be procured for that purpose.

Sec. 3. All copies from said abstracts, properly certified as being true, under the hand and seal of said Clerk, shall be received in testimony in all courts held in said county, as prima facie evidence of the contents of the original records of the contents of such original deeds, and said abstracts shall be constructive notice of the recording, date of recording and contents of such deeds therein noted; provided, that copies of said abstracts shall be received in evidence only in such cases and under the same rules and regulations in and under which copies of recorded deeds are permitted to be received in evidence.

Sec. 4. That said Clerk is hereby authorized and required to demand and receive, from any and all persons desiring him to examine the said abstract for them, the sum of fifty cents for each and every such examination, one-third of which fee he shall retain for his services, and the remainder he shall pay over to the County Treasurer at least once in every six months.

Sec. 5. As many counties in this State have had their land records burned, and no means exist to supply their loss; therefore, there exist an emergency and necessity for immediate legislation on the subject, it is therefore enacted that this act take effect and be in force from and after its passage.

Approved August 12, 1876.

Takes effect from its passage.

CHAPTER XCI.—An Act to provide for the transferring of all criminal cases in which indictments have been found to the proper court having jurisdiction thereof.

Section 1. Be it enacted by the Legislature of the State of Texas, That at the end of each term of the District Court of each county in this State, the District Judge shall make an order transferring all criminal cases over which the District Court has no jurisdiction to the several courts in the county having jurisdiction over the respective cases, and shall state in his order the cause transferred, and to what court they are transferred; provided, that all causes over which Justices of the Peace may have jurisdiction shall be transferred to a Justice of the Peace at the county seat; and provided further, that if it appear to the Judge that the offense has been committed in any incorporated town or city, the cause shall be transferred to a Justice in said city or town.

Sec. 2. The Clerk of the District Court shall deliver the indictments and all the papers relating to each case to the proper court or Justice as directed in said order, and accompanying each case a certified copy of all the proceedings taken in the District Court in regard to the same; and also a bill of costs, showing what costs have accrued in the District Court; and the costs due in said account shall be collected in the court in which said causes are tried, in the same manner as if decided in the District Court.

Sec. 3. That all cases transferred under this act shall be entered on the docket of the court to which they are transferred, and the defendants arraigned and tried in the same manner as if said cause had originated in said courts.

Sec. 4. Whereas, many causes are now pending on the dockets of the various District Courts of the State which cannot be tried, because there is no existing law providing for the transfer of said causes to the respective courts having jurisdiction thereof; therefore, an imperative public necessity and emergency exist that this law go into immediate effect, and it is hereby enacted that the same go into effect and be in force from and after its passage.

Approved August 12, 1876.

Takes effect from its passage.

CHAPTER XCII.—An Act to establish an Agricultural and Mechanical College of Texas, for the benefit of the colored youths and to make appropriations therefor.

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be established in this State at such point and in the manner provided for in this act, an Agricultural and Mechanical College for the benefit of the colored youths of this State.

Sec. 2. The Governor is hereby authorized to appoint a Commission, consisting of three competent persons, who shall select a suitable place for the location of said Agricultural and Mechanical College, and make report thereof to the Governor as hereinafter provided for; provided, that the site so selected shall contain not less than five hundred acres of land suitable for agricultural purposes. The said Commissioners shall have authority to receive donations of land and money to aid in the erection and maintenance of said Agricultural and Mechanical College. When said College shall have been located, it shall be known as the Agricultural and Mechanical College of Texas, established for colored youths, and shall be under the supervision and control of the Board of the Agricultural and Mechanical College, as established by an act of the Legislature, passed April 17, 1871.

Sec. 3. The Governor shall appoint a competent Architect, who shall submit a plan and specifications of suitable buildings for said college, of capacity for the accommodation of at least one hundred students, to be approved by the Governor.

Sec. 4. The said Commissioners shall proceed to make selection of said location, and report the same to the Governor at as early a day as practicable.

Sec. 5. Upon the approval of the plans and specifications for said buildings by the Governor, the said Commissioners shall proceed to advertise for ninety days in two or more newspapers published in this State, for sealed proposals for the erection of said buildings, giving full particulars of the terms and conditions of such contracts, and the time and place when and where the bids therefor shall be opened and contracts awarded.

Sec. 6. Contractors for the erection of said buildings shall be required to enter into bond with good and sufficient security payable to the Governor and his successors in office, to be approved by the Governor in a sum equal to double the amount of his or their bid, or bids, conditioned that such contractor or contractors will execute the work or furnish the material contracted for, in strict accordance with the terms and conditions of such contract.

Sec. 7. The said Commissioners and Architect together, shall constitute a Board of Directors, or Building Committee, and shall have full management and control of the direction and execution of said contracts for the erection of said buildings, and shall make report of the progress of the same to the Governor at least once in each six months till the same is completed and received by the Governor.

Sec. 8. The sum of twenty thousand dollars, or so much thereof as shall be deemed necessary to locate, erect, furnish and operate said college in accordance with the plans, specifications and estimates as shall be approved by the Governor, for the completion of the same be, and the same is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Sec. 9. The said Commissioners shall be allowed each the sum of five dollars per day, and mileage at the rate of ten cents per mile for each day actually engaged, and each mile actually traveled, in the selection or locating of said college to be verified by their sworn statement respectively, and approved by the Governor, which sworn statement so approved shall be a sufficient voucher upon which the Comptroller shall draw his warrant on the Treasurer for such amount, and that for services to be by them rendered as a Board of Directors or Building Committee, such compensation as the Governor in his discretion shall allow; provided, that the Governor shall have and exercise his discretionary power to dissolve the said committee when in his judgment the same shall be necessary.

Sec. 10. That the class of citizens for whose benefit this act is to effect specially, shall enjoy the same at as early a day as practicable, a public necessity and emergency exists, that this act take effect and be in force from and after its passage.

Approved August 14, 1876.

Takes effect from its passage.

CHAPTER XCIII.—An Act to amend the fifth section of an act concerning rents and advances, approved April 4, 1874.

Section 1. Be it enacted by the Legislature of the State of Texas, That Section 5 of the above recited act shall hereafter read as follows.

Sec. 2 (5). Nothing in this act contained shall be so construed as to prevent landlords and tenants from entering into such stipulations or contracts in regard to rents and advances as they may think proper; and should the landlord, without any default on the part of the tenant or lessee, fail to comply in any respect with his part of the contract, he shall be responsible to said tenant or lessee for whatever damage may be sustained thereby; and to secure such damages to such tenant or lessee, he shall have a lien on all the property in his possession not exempt from forced sale, as well as upon all rents due to said landlord, under said contract; but if lands or tenements are rented by the landlord to any person or persons, such person or persons renting said lands or tenements shall not rent or lease said lands or tenements during the term of said lease to any other person without first obtaining the consent of the landlord, his agent or attorney.

Approved August 14, 1876.

Takes effect ninety days after adjournment.

CHAPTER XCIV.—An Act to provide for a regular term of the District Court in Rains county.

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be held, in the county of Rains, a regular term of the District Court, to begin on Monday, the twenty-fifth day of September, A. D. 1876, and continue in session two weeks; and all process returnable to the regular term for said county, under the law as it heretofore existed, shall be returnable thereto.

Sec. 2. That an emergency and imperative public necessity exist, as no law now in force provides for a full term of the District Court in

Rains county; therefore, this act take effect and be in force from and after its passage.

Approved August 15, 1876.

Takes effect from its passage.

CHAPTER XCV.—**An Act to amend an act entitled, "An Act to provide for the organization of the State Lunatic Asylum, and for the care and maintenance of the insane," approved February 5, 1858.**

Section 1. Be it enacted by the Legislature of the State of Texas, That the eighth section of the act passed February 5, 1858, to which this is amendatory, shall read as follows:

"Sec. 8. If information in writing be given to any County Judge that any person in his county is a lunatic, or non compos mentis, and that the welfare of himself or herself or of others requires that he or she be placed under restraint, and said County Judge shall believe such information to be true, he shall order such person to be brought before him and twelve competent jurors of his county to be summoned, who shall be sworn to enquire and a true verdict render whether such person is of sound mind or not; whereupon, the matter shall be tried, and if the jury shall return a verdict that the person is not of sound mind, and that he or she should be placed under restraint, the same shall be recorded on the books of the County Court, and the County Judge shall thereupon order him or her to be sent to the lunatic asylum, unless some friend or legal representative (to whom the County Judge in his discretion may deliver such person) will give bond payable to the State, with sufficient security, to be approved by said County Judge, with the condition to restrain and take proper care of such person until the cause of confinement shall cease, or he or she is delivered to the Sheriff of the county, or other person, to be proceeded with according to law. Upon the trial and inquiry herein provided for, it shall be the duty of the County Attorney to appear for and represent the State, and the examination of the insane and the testimony of the witnesses shall be reduced to writing and filed. The proceedings of the County Judge in relation to insane persons shall be minuted in the record of his court appertaining to estates of deceased persons."

Sec. 2. That Section 9 of said act shall be amended so as to read as follows:

"Sec. 9. It shall be the duty of the County Judge, on ordering the person to be sent to the asylum, to ascertain and to state in the authenticated proceedings to be sent to the Superintendent of the State Lunatic Asylum: First, the age, nativity and civil condition of the lunatic; Second, the number of attacks, and how long the present one has existed; Third, whether the insanity is hereditary or not; Fourth, the number of his family, if he has one, and their ability to maintain themselves; Fifth, the value of his or her estate, if any; and Sixth, the ability of persons legally liable for his or her support; and he shall make an order specifying the amount which his guardian, if any, shall pay out of the estate of such person for his support in the asylum, and shall cause a minute to be made of the facts ascertained."

Sec. 3. That Section 10 of said act shall be amended so as to read as follows:

"Sec. 10. Before sending a patient to the asylum, the County Judge shall without delay cause authenticated copies to be made of the proceedings, evidence and decree of the original inquisition and of the record of all subsequent inquisitions and orders, to be forwarded by mail to the Superintendent of the Lunatic Asylum, and in all cases shall, before sending such person, ascertain from the Superintendent by application in writing that there is a vacancy. Thereupon the County Judge shall issue his warrant to the Sheriff or other suitable individual, ordering him to convey said person to the Lunatic Asylum, without delay, and when satisfied of the necessity for assistants, he shall prescribe in such warrant the number to be allowed, which in no case shall exceed two; and he shall see that the patient is provided with two good and full suits of summer and one of winter clothing."

Sec. 4. That Section 17 of the said act shall be amended so as to read as follows:

"Sec. 17. The custody and maintenance of all lunatics who shall be found to be indigent, as well those now in the asylum, as those to be hereafter admitted, shall be at the expense of the State, under the rules and restrictions as are prescribed herein. In cases where any patient is now in the custody and care of said asylum, if said patient is held and treated at the expense of the county from which he or she was sent, it shall be the duty of the Superintendent of said asylum, as soon as practicable after the passage of this law, to communicate by mail with the County Judge of said county, giving him the names of such persons so confined from said county; whereupon it shall be the duty of the County Judge to cause a jury of twelve men to be summoned before him and shall proceed to take the necessary evidence, to hear and determine whether such lunatic is a person without any means to support him or her, and whether any person in said county is legally liable to support said lunatic. Said jury shall be sworn to try the matter and a true verdict render; and said County Judge shall cause the testimony to be written down and filed, and the verdict of said jury to be recorded. And if said verdict shall be that said lunatic is in indigent circumstances, and without any property to support him or her, the County Judge shall certify the facts, together with a copy of testimony and the verdict of said jury to the said Superintendent of the asylum, and thereupon said lunatic shall be kept and maintained at the expense of the State."

Sec. 5. That in all cases, as provided for in Section 1 of this act, it shall be the duty of [the] County Judge to cause said jury to enquire, in addition to the matters to be enquired about, as set forth in said Section 1, whether such person, so found by the jury to be of unsound mind, is also a person without means to support him or her, and whether any person in said county is legally liable to support said lunatic; and it shall be the duty of said County Judge to certify all of said proceedings to the Superintendent of the asylum, and if it shall be found by the verdict of said jury that said lunatic is an indigent person, then, in that case, the expense and maintenance of such person shall be paid by the State. If it shall appear, upon such inquisition, that any person is legally liable for the support of such insane person, the facts shall all be certified to the Clerk of the District Court, who shall have authority to order the payment thereof by the person liable, and if the same be adjudged against the property of the patient or his or her guardian or legal representative, the payment thereof may be, as in other cases, en

forced by execution; provided, that an appeal may be taken to the District Court from the order of the Clerk.

Sec. 6. For all persons who are not indigent, the Superintendent may make a special contract at any rate not less than five dollars (\$5) per week. In all cases of indigent lunatics, the expenses of removing the patient from the asylum home and for the necessary clothing with which he shall be furnished by the asylum, shall be paid by the State. The expenses of conveying indigent lunatics to the asylum shall be paid by the county; and the Sheriff or other person conveying said lunatic shall, in each case, make out and cause to be delivered to the County Judge for allowance, a statement, verified by affidavit, of the actual expenses incurred in the transportation of such lunatics to the asylum for payment; and the same shall be paid by the county.

Sec. 7. In receiving patients into the asylum, preference shall be given, in all cases, to indigent patients.

Sec. 8. Inasmuch as a number of indigent lunatics are being supported at the expense of many of the counties of this State, and as the Constitution requires that all such lunatics shall be supported at the expense of the State, an emergency and an imperative public necessity exists, requiring the immediate passage of this act; therefore, this act shall take effect and be in force from and after its passage.

Approved August 15, 1876.

Takes effect from its passage.

CHAPTER XCVI.—An Act to provide for the holding of District Courts when the Judge thereof is absent, or is, from any cause, disabled or disqualified from presiding.

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever on the day appointed for the beginning of a term of any District Court, or at any time before the expiration of the term or the completion of all the business of said court, the Judge of any District Court shall be absent from said court, or shall fail or be unable to hold said court, there shall be thereby no failure of the term of the court, and no failure to proceed with the business thereof, but it shall thereupon be the duty of the practicing lawyers in the court present thereat to choose from among their number a Special Judge of said court, who, upon taking the oath before the Clerk of said court to support the Constitution of the United States, and the further oath provided in Section 1 of Article 16, of the Constitution, shall have all the power and authority of a District Judge of said court during the continued absence or inability of the Judge thereof, and shall proceed to hold said court and conduct the business thereof as its lawful Judge.

Sec. 2. That all the practicing lawyers in attendance at said court shall be entitled to participate in the election of said Special Judge, each lawyer having one vote, and a majority of all the lawyers present and participating in the election shall be necessary to the election of any Special Judge, and the said election shall be by ballot. The said practicing lawyers shall compose an electoral body entitled to make and conduct said election, and the following mode thereof shall be legal and sufficient: Public proclamation shall be made by the Sheriff at the court-house door that the election of a Special Judge is to be made by the practicing lawyers of said court present thereat, after which the Clerk of the court shall make a roll or list of all such practicing law-

yers present; and said lawyers shall proceed to organize and make the election of said Judge by ballot as aforesaid; and said lawyers shall have the right to organize and make such election, although the Sheriff and Clerk, or either of them, should fail or refuse to act, or their office be vacant. A record shall be made and entered on the minutes of the court of the election of said Judge, and said record must show: First—The names of all practicing lawyers present and participating in such election. Second—The fact that public proclamation was made at the court-house door that said election was about to take place. Third—The ballot or ballots polled at such election, with the result of each ballot, showing the number of ballots for each person. Fourth—That the oath prescribed in Section 2(1) of this act has been administered. And such proceedings, and the record thereof showing substantial compliance with the above, shall be evidence of the valid election of a Special Judge of said court. Such election may be made from time to time during the term of court to supply the absence, or failure, or inability of the Judge to act, and of any Special Judge of said court.

Sec. 3. That whenever any case is called in which the District Judge or the Special Judge chosen as hereinbefore provided, shall be a party or have interest, or have been attorney, or counsel, or otherwise disqualified from sitting in and trying the same, no change of venue shall be made necessary thereby; but the parties or their counsel shall have the right to select and agree upon an attorney of the court for the trial thereof.

Sec. 4. Said Special Judge shall be paid at the same rate of District Judges per day for his services, out of the State Treasury; such payment to be made on the certificate of the Clerk of the court to the Comptroller, of the record of such election and services, and an affidavit by the Special Judge to the correctness of the claim.

Sec. 5. To provide for the contingencies currently and frequently occurring in the conduct of the courts, an imperative public necessity and emergency exists for the immediate passage and taking effect of this act, and it is enacted that this act take effect from and after its passage.

Approved August 15, 1876.

Takes effect ninety days after adjournment.

CHAPTER XCVII.—An Act to provide for the incorporation of associations that may be organized for the purpose of constructing railways, maintaining and operating the same, for prescribing and defining the duties and limiting the powers of such corporations when so organized.

Section 1. Be it enacted by the Legislature of the State of Texas, That any number of persons, not less than ten, being subscribers to the stock of any contemplated railroad, may be formed into a corporation for the purpose of constructing, owning and maintaining such railroad, by complying with the following requirements, when stock to the amount of one thousand dollars for every mile of said road so intended to be built, shall be in good faith subscribed and five per cent. paid thereon.

Sec. 2. Such persons shall organize by adopting and signing articles of incorporations, which shall be submitted to the Attorney-General of this State, and if it shall be found by the Attorney-General of this State to be in accordance with the provisions of this act, and not in conflict with the laws of the United States and of this State, he shall

attach thereto a certificate to that effect, whereupon said articles shall be recorded in the office of the recorder of deeds, in each county through or into which said railway is proposed to run, and in the office of the Secretary of State.

Sec. 3. Such articles shall contain: First—The name of the proposed corporation. Second—The places from and to which it is intended to construct the proposed railway, and the intermediate counties through which it is proposed to construct the same. Third—The place at which shall be established and maintained the principal business office of such proposed corporation. Fourth—The time of the commencement and period of the continuation of such proposed corporation. Fifth—The amount of the capital stock of such corporation. Sixth—The names and places of residence of the several persons forming the association for incorporation. Seventh—The names of the members of the first Board of Directors, and in what officers or persons the government of the proposed corporation, and the management of its affairs shall be vested. Eighth—The number and amount of shares in the capital stock of such proposed corporation; provided, that such articles of association shall not be filed in the office of the Secretary of State, as aforesaid, until five per cent. of the amount of stock subscribed thereto shall have been actually paid in cash to the Directors named in such articles, nor until there is annexed thereto an affidavit made by at least three of the Directors named in said articles, that the amount of stock required by this section, to-wit: one thousand dollars per mile, has been subscribed, and that five per cent. on the amount has actually been paid in.

Sec. 4. When the articles shall have been filed and recorded as aforesaid, the persons named as corporators therein shall thereupon become and be deemed a body corporate, and shall thereupon be authorized to proceed to carry into effect the objects set forth in such articles in accordance with the provisions of this act. As such body corporate, they shall have succession, and in their corporate name may sue and be sued, plead and be impleaded. The said corporation may have and use a common seal, which it may alter at pleasure, may declare the interests of its stockholders transferable, establish by-laws, and make all rules and regulations deemed necessary for the management of its affairs in accordance with law. A copy of any articles of incorporation filed and recorded in pursuance with this act, or of the record thereof, and certified to be a copy by the Secretary of State, or acting Secretary of State, or recorder of deeds of any county in which the same has been recorded, shall be presumptive evidence of the incorporation of such company, and of the facts therein stated; provided, that, in any suit in any court in this State, by or against any railway corporation, it shall not be necessary for either party to prove the act of incorporation, and the allegation that the corporation is an incorporated company shall be deemed *prima facie* true.

Sec. 5. The existence of the corporation shall date from the filing of the charter in the office of the Secretary of State, and the certificate of the Secretary of State shall be evidence of such filing. Any corporation organized under the provisions of this act, or any railroad corporation heretofore incorporated by special act of the Legislature and still in being, may amend or change its articles or act of incorporation in the same manner that this act requires for the original organization and incorporation of such corporation, to-wit: By filing, authenticated, as by

this act required, the amendments or changes to the original charter with the Secretary of State; and in case of a corporation created by a special act of the Legislature, said corporation shall cause the changes or amendments to its charter, together with its original charter and such amendments as have been made by special act, recorded and authenticated as by this act required, to be filed with the Secretary of State, to be by him recorded as in the case of acts of incorporation under this act. And such changes or amendments shall be in force from the date of filing with the Secretary of State; provided, that where, by the special act or acts incorporating any railroad, any privileges, rights or benefits are conferred upon said railroad corporation, such as it could not claim, exercise or receive under this act, or the general laws of this State, if so organized under this act, such railroad corporation shall not be permitted so to change its charter or articles or act of incorporation as to relieve it from any of the requirements of said special act or acts conferring said rights, privileges or benefits; and provided further, that nothing in this act shall be construed so as to allow any railway company chartered under this act or under a special act of the Legislature, to alter or change any part of its charter requiring it to build its road through and to maintain passenger and freight depots in or near any town or city in this State, and within the time named in its charter; provided further, that any railroad company hereafter chartered under this act, shall make an actual survey of its route or line for a distance of twenty-five miles on its projected route, and shall designate the depot grounds along said first twenty-five miles before the road bed is begun, and no railway company shall change its route after being designated as aforesaid. And all railroad companies chartered as aforesaid shall, on the completion of the first twenty-five miles of its road bed, make a survey of the next twenty-five miles, and of each subsequent twenty-five miles as the preceding twenty-five miles shall be completed, and every subsequent twenty-five miles shall be controlled by the provisions applicable to the first twenty-five miles of the road; provided further, that whenever any such railway passes through any enclosure the necessary stock gaps for the protection of such enclosure from stock, shall be constructed by said railway.

Sec. 6. That all such companies, and all companies heretofore chartered by act of the Legislature, shall have the right to purchase lands and receive donations of the same, to aid in the construction of their road; the land so purchased or donated, except that used for depot purposes, reservations for the establishment of machine shops, turnouts and switches, to be alienated and disposed of in the same manner and time as is required where lands have been received from the State; and this provision shall apply to such roads as are prohibited by their acts of incorporation from purchasing or receiving donations of land.

Sec. 7. Any such railroad mentioned in the fifth section may, by amendment to its charter or act, or articles of incorporation, in the manner in said section indicated and required, project and provide for the locating, constructing, owning and maintaining a branch line to its original main or trunk line of railroad, from any point on its said original main or trunk line, to any other point in this State, by a branch line to the main line, making an angle with said main line of at least twenty-five degrees in the general course of said branch line, and also so projected that said branch line shall, in no case, be so located as to be or become such a line of railroad as that if the same were owned by another corporation the corporation owning the main line, or any one of the other

branches thereof, would be forbidden by the Constitution and laws of this State from consolidating therewith, on account of the lines being parallel or competing lines; provided, that any such corporation making such an amendment to its charter or act or articles of incorporation, as is authorized by this section, shall complete and put in good running order at least ten miles of its said branch line, in said amendment proposed, within one year from the making of said amendment, and an additional extent of at least twenty miles each and every succeeding year until the entire extent of the projected branch line is completed; and in case of failure of any such corporation to comply with the requirements of this proviso, its corporate existence as to all the unfinished portion of said projected branch line shall immediately cease, and be incapable of resumption by any subsequent action of such corporation.

Sec. 8. No such corporation shall be formed to continue more than fifty years in the first instance, but such corporation may be renewed from time to time in such manner as may be provided by law, for periods not longer than fifty years; provided, that three-fourths of the vote cast by the stockholders of such corporation at any regular election for that purpose shall be in favor of such renewal, and those desiring a renewal shall purchase the stock of those opposed thereto, at its current value.

Sec. 9. A copy of the by-laws of the corporation, duly certified, shall be recorded, as provided for the recording of the articles of associations in section two of this act; and all amendments and additions thereto, duly certified, shall also be recorded as herein provided, within ninety days after the adoption thereof.

Sec. 10. Every such corporation organized under the provisions of this act shall have and maintain a public office or place at one of the termini or on the line of its road, in this State, for the transaction of its business, where transfer of all its stock shall be made, and in which shall be kept for public inspection, books, wherein shall be recorded the amount of capital stock subscribed, and by whom, the names of the owners of its stock, the number of shares held by each person, and the number by which each of said shares is respectively designated, and the amounts owned by them respectively, the amount of stock paid in, and by whom, the transfers of said stock, the amount of its assets and liabilities, and the names and places of residence of all its officers. No transfer shall be valid until the transfer shall have been made on the stock and transfer books of the company.

Sec. 11. All the corporate powers of every such corporation shall be vested in and be exercised by a Board of Directors, who shall be stockholders of the corporation, and shall be elected at the annual meeting of stockholders at the public office of such corporation within this State. The number of such Directors, not less than seven nor more than nine; the manner of their election and the mode of filling vacancies shall be specified in the by-laws, and shall not be changed except at the annual meetings of the stockholders.

Sec. 12. A meeting may be called at any time during the interval between such annual meetings by the Directors or by the stockholders owning not less than one-fourth of the stock, by giving thirty days' public notice of the time and place of such meeting in some newspaper published in each county through or into which the said railway shall run or be intended to run; provided, there be a newspaper published in each of

the counties aforesaid; and if at any such special meeting so called, a majority, in value, of the stockholders, equal to two-thirds of the stock of such corporation shall not be represented in person or by proxy, such meeting shall be adjourned from day to day, not exceeding three days, without transacting any business, and if within said three days two-thirds in value of such stock shall not be represented at such meeting, then the meeting shall be adjourned and a new call may be given and notified as hereinbefore provided.

Sec. 13. At the regular annual meeting of the stockholders of any corporation organized under the provisions of this act, it shall be the duty of the President and Directors to exhibit a full, distinct and accurate statement of the affairs of the said corporation, and at any meeting of the stockholders, or a majority of those present, in person or by proxy, may require similar statements from the President and Directors, whose duty it shall be to furnish such statements when required in the manner aforesaid; and at all general meetings of the stockholders a majority in value of the stockholders of any such corporation may fix the rates of interest which shall be paid by the corporation for loans for the construction of such railway and its appendages, and the amount of such loans at any special meeting, by a two-thirds vote in value of all the stock, such stockholders may remove any President, Director or other officer of such corporation, and elect others instead of those so removed. All stockholders shall, at all reasonable hours, have access to and may examine all books, records and papers of such corporation.

Sec. 14. In case it shall happen at any time that an election of Directors shall not be made on the day designated by the by-laws of such corporation for that purpose, the corporation for such cause shall not be dissolved if within ninety days thereafter the stockholders shall meet and hold an election for Directors in such manner as shall be provided by the by-laws of such corporation; provided, that it shall require a majority in value of the stock of such corporation to elect any member of such Board of Directors, and a majority of such Board of Directors shall be citizens and residents of this State.

Sec. 15. There shall be a President of such corporation, who shall be chosen by and from the Board of Directors, and such other subordinate officers as such corporation, by its by-laws, may designate, who may be elected or appointed, and shall perform such duties and be required to give such security for the faithful performance thereof, as such corporation by its by-laws shall require; provided, that it shall require a majority of the Directors to elect or appoint any officer.

Sec. 16. The Directors of such corporation may require the subscribers to the capital stock of such corporation to pay the amount by them respectively subscribed in such manner and in such installments as they may deem proper. If any stockholder shall neglect to pay any installment as required by a resolution or order of such Board of Directors, the said Board shall be authorized to advertise said stock for sale, by publication once a week for thirty days, and then sell the same to the highest bidder, the proceeds to be credited to the delinquent stockholder.

Sec. 17. The stock of such corporation shall be deemed personal estate, and shall be transferable in the manner prescribed by the by-laws of such corporation. But no shares shall be transferable until all previous calls thereon shall have been paid, and it shall not be lawful for such corporation to use any of the funds thereof in the purchase

own stock, or that of any other corporation, or to loan any of its funds to any Director or other officer thereof, or permit them, or any of them, to use the same for other than the legitimate purposes of such corporation; provided, that nothing herein contained shall be so construed as to prevent lateral or branch roads, intended as feeders to the main line or trunk road, from consolidating with and forming a part of the main or trunk line upon such terms and conditions as may be agreed upon by the companies owning the trunk and branch lines.

Sec. 18. In case the capital stock of any such corporation shall be found insufficient for constructing and operating its road, such corporation may, with the concurrence of two-thirds in value of all its stock, increase its capital stock from time to time to any amount required for the purpose aforesaid. Such increase shall be sanctioned by a vote, in person or by proxy, of two-thirds in amount of all the stock of such corporation, at a meeting of such stockholders, called by the Directors of the corporation for such purpose, by giving notice in writing to each stockholder, to be served personally, or by depositing the same in a post office, directed to the post office address of each of said stockholders severally, with necessary postage for the transmittal of the same prepaid, at least sixty days prior to the day appointed for such meeting, and by advertising the same in some newspaper published in each county through or into which the said road shall run or be intended to run (if any newspaper shall be published therein), at least sixty days prior to the day appointed for such meeting. Such notice shall state the time and place of the meeting, the object thereof, and the amount to which it is proposed to increase such capital stock; and at such meeting the corporate stock of such corporation may be so increased by a vote of two-thirds in amount of the corporate stock of such corporation, to an amount not exceeding the amount mentioned in the notice so given. Should the Directors of any such corporation desire at any time to call a special meeting of the stockholders for any other necessary purpose, the same may be done in the manner in this section provided, and if such meeting be attended by the owners of two-thirds in amount of the stock, in person or by proxy, any other necessary business of such corporation may be then transacted, except the altering, amending or adding to the by-laws of such corporation; provided, such business shall have been specified in the notices given, and the proceedings of any such meetings shall be entered on the journal of the proceedings of such corporation. Every order or resolution increasing the capital stock of any such corporation, shall be duly recorded as required in section two of this act.

Sec. 19. No person holding stock in any such corporation as executor, administrator, guardian or trustee, and no person holding such stock as collateral security shall be personally subject to any liability as stockholders of such corporation; but the person pledging the stock shall be considered as holding the same, and shall be liable as a stockholder accordingly.

Sec. 20. Each stockholder of any corporation formed under the provisions of this act shall be held individually liable to the creditors of such corporation to an amount not exceeding the amount unpaid on the stock held by him, for any and all debts and liabilities of such corporation, until the whole amount of the capital stock of such corporation so held by him shall have been paid.

Sec. 21. If any such corporation shall be unable to agree with the

owner for the purchase of any real estate required for the purpose of its incorporation, or the transaction of its business, or for its depots, station buildings, machine and repair shops, or for right of way, or any other lawful purpose connected with or necessary to the building, operating or running of said road, such corporation may acquire such title in the manner that may be now or hereafter provided for by any law of eminent domain.

Sec. 22. Any such corporation may, by their agents and employes, enter upon and take from any land adjacent to its road, earth, gravel, stone or other materials, except fuel and wood, necessary for the construction of such railway, paying, if the owner of such land and the railway can agree thereto, the value of such material taken and the amount of damage occasioned to any such land or its appurtenances; and if such owner and corporation cannot agree, then the value of such material and the damage occasioned to such real estate may be ascertained, determined and paid in the manner that may now or hereafter be provided by any law of eminent domain; but the value of such materials and the damages to such real estate shall be ascertained, determined and paid for before such corporation can enter upon or take the same.

Sec. 23. Every corporation formed under this act shall, in addition to the powers hereinbefore conferred, have power: First—To cause such examination and survey for its proposed railway to be made as may be necessary to the selection of the most advantageous route; and for such purpose, by its officers, agents or servants, may enter upon the lands or waters of any person or corporation, but subject to responsibility for all damages which shall be occasioned thereby. Second—To take and hold such voluntary grants of real estate and other property as shall be made to it in aid of the construction and use of its railway, and to convey the same when no longer required for the uses of such railway, not incompatible with the terms of the original grant. Third—To purchase, hold and use all such real estate and other property as may be necessary for the construction and use of its railway and the stations, and other accommodations necessary to accomplish the object of its incorporation, and to convey the same when no longer required for the use of such railway. Fourth—To lay out its road not exceeding two hundred feet in width, and to construct the same; and for the purpose of cutting and embankments, to take as much more land as may be necessary for the proper construction and security of the railway, and to cut down any standing trees that may be in danger of falling upon or obstructing the railway, making compensation in manner provided by law. Fifth—To construct its railway across, along or upon any stream of water, water course, street, highway, plank road, turnpike or canal, which the route of such railway shall intersect or touch; but such corporation shall restore the stream, water course, street, highway, plank road and turnpike thus intersected or touched, to its former state, or to such state as not unnecessarily to have impaired its usefulness, and keep such crossing in repair; provided, that in no case shall any railroad company construct a road bed without first constructing the necessary culverts or sluices as the natural lay of the land requires for the necessary drainage thereof. Nothing in this act contained shall be construed to authorize the erection of any bridge or any other obstruction across or over any stream navigated by steamboats or sail vessels at the place where any bridge or other obstruction may be proposed to be placed, so as to prevent the

navigation of such stream; nor to authorize the construction of any railroad upon or across any street in any city or incorporated town or village, without the assent of the corporation of such city, town or village; provided, that in case of the constructing of said railway along highways, plank roads, turnpikes or canals, such railway shall either first obtain the consent of the lawful authorities having control or jurisdiction of the same, or condemn the same under the provisions of any eminent domain law now or hereafter in force in this State. Sixth—To cross, intersect, join and unite its railways with any other railway before constructed at any point on its route, and upon the grounds of such other railway company, with the necessary turnouts, sidings and switches, and other conveniences in furtherance of the objects of its connections, and every corporation whose railway is or shall be hereafter intersected by any new railway, shall unite with the corporation owning such new railway in forming such intersections and connections, and grant the facilities aforesaid; and if the two corporations cannot agree upon the amount of compensation to be made therefor, or the points and manner of such crossings and connections, the same shall be ascertained and determined in manner prescribed by law. Seventh—To receive and convey persons and property on its railway, by the power and force of steam or animals, or by any mechanical power. Eighth—To erect and maintain all necessary and convenient buildings and stations, fixtures and machinery for the accommodation and use of passengers, freights and business interests, or which may be necessary for the construction or operation of said railway. Ninth—To regulate the time and manner in which passengers and property shall be transported, and the compensation to be paid therefor, subject, nevertheless, to the provisions of any law that may now or hereafter be enacted. Tenth—From time to time to borrow such sums of money as may be necessary for completing, finishing, improving or operating any such railway, and to issue and dispose of its bonds for any amount so borrowed, and to mortgage its corporate property and franchise to secure the payment of any debt contracted by such corporation for the purposes aforesaid; but the concurrence of the holders of two-thirds in amount of the stock of such corporation, to be expressed in the manner and under all the conditions provided in the eighteenth section of this act, shall be necessary to the validity of any such mortgage; and the order or resolution for such mortgage shall be recorded as provided in the second section of this act; and the Directors shall be empowered, in pursuance to any such order or resolution, to confer on any holder of any bond, for money so borrowed as aforesaid, the right to convert the principal due or owing thereon into the stock of such corporation at any time not exceeding ten years after the date of such bond, under such regulations as may be provided in the by-laws of such corporation. And the provisions and privileges of the ten sub-divisions of this section shall extend to and apply as well to railway companies heretofore chartered by special acts of the Legislature as to those chartered under this act.

Sec. 24. The rolling stock and all other movable property belonging to any such corporation shall be considered personal property, and shall be liable to execution and sale in the same manner as the personal property of individuals.

Sec. 25. No such corporation shall issue any stock or bonds except for money, labor, or property actually received and applied to the purpose for which such corporation was organized. All stock dividends

and other fictitious increase of the capital stock or indebtedness of any such corporation shall be void.

Sec. 26. No such corporation shall consolidate its capital stock with any other railway owning a parallel or competing line nor shall any corporation organized under this act consolidate by private or judicial sale or otherwise with any railroad company organized under the laws of any other State, or of the United States, and in no case shall any consolidation take place except upon sixty days' notice thereof given, which notice shall be given in manner and form as prescribed in the eighteenth section of this act.

Sec. 27. The President or Superintendent of any such corporation shall annually make a report, under oath, to the Comptroller of Public Accounts, or to the Governor, and to such other officers as may be designated by law, of all its actings and doings, which report shall include all matters relating to such corporation as may be now or hereafter prescribed by law.

Sec. 28. The Legislature shall have power to enact, from time to time, laws to prevent and correct abuses, and to prevent unjust discriminations and extortions in the rates of freight and passenger tariff, and to establish reasonable maximum rates of charges for the transportation of persons or property on any railway that may be constructed under the provisions of this act, and to enforce such laws by adequate penalties, to the extent, if necessary for that purpose, of forfeiture of the property and franchise of any such corporation.

Sec. 29. In all elections for Directors or Managers of such railway corporations, every stockholder shall have the right to vote in person or by proxy for the number of shares of stock owned by him for as many persons as there are Directors or Managers to be elected, or to cumulate said shares and give one candidate as many votes as the number of Directors multiplied by the number of his shares of stock shall equal, or to distribute them on the same principle among as many candidates as he may see fit; and such Directors or Managers shall not be elected in any other manner.

Sec. 30. In all cases when any corporation organized under this act, to induce aid in its construction, either by donation or subscription to its capital stock, shall desire to fix the rates for any period of time for the transportation of passengers or freights, such a corporation may adopt a resolution fixing such rates and the time for which the same is to be fixed, and have the same recorded in the office of the Recorder of Deeds, in the several counties through which said road is proposed to be run, and during the time for which they are fixed, said rates shall in no case be amended by said corporation or its successors; provided, that said rates shall not exceed the rates allowed by law.

Sec. 31. If any railway corporation organized under this act shall not within two years after its articles of association shall be filed and recorded as provided in the second section of this act, begin the construction of its road, and construct, equip and put in good running order at least ten miles of its proposed road, and if any such railroad corporation, after the first two years, shall fail to construct, equip and put in good running order at least twenty additional miles of its road each and every succeeding year, until the entire completion of its line, such corporation shall in either of such cases forfeit its corporate existence, and its powers shall cease as far as relates to that portion of said road then

unfinished, and shall be incapable of resumption by any subsequent act of incorporation.

Sec. 32. Every corporation organized, or which may hereafter be organized by virtue of any law of this State, shall establish its domicil at some place within the State of Texas, and not elsewhere.

Sec. 33. There being no general law now in force in this State providing for the organization of railroad corporations, an imperative public necessity and emergency exists which requires the immediate passage and taking effect of this act, and it is therefore enacted that this act take effect and be in force from and after its passage.

Approved August 15, 1876.

Takes effect ninety days after adjournment.

CHAPTER XCVIII.—An Act to carry into effect Sections twenty-two and twenty-three, Article sixteen, of the Constitution of the State of Texas, authorizing the passage of stock and fence laws.

Section 1. Be it enacted by the Legislature of the State of Texas, That upon the petition of fifty freeholders of any county in the State, or upon the petition of twenty freeholders of any specified portion or sub-division of the same, which sub-division shall be described in said petition, setting forth clearly what character and description of stock other than horses, mules, jacks, jennets and all classes of horned cattle, which said freeholders desire may run at large in said county or sub-division, as the case may be, to the County Court of said county, asking for the enactment of a stock law, in accordance with the provisions of this act, the County Court so petitioned shall order an election in the county or sub-division of the same, as the case may be, in accordance with the petition, at its first regular term thereafter, by giving thirty days' notice by advertisement, describing the kind of stock, as described in said petition, in the weekly newspaper of said county which has the largest circulation in the county, and if there be no newspaper in said county, notice shall be given in the following manner, to-wit: By posting a copy of such notice and description on the court-house door, and in each Justice's precinct, when in a county election, and when in an election of a sub-division of the county, in three public places in such sub-division.

Sec. 2. The freeholders being qualified voters of any county in the State, or sub-division of said county, may determine by a majority vote, at an election ordered for that purpose, whether the stock described in said petition shall run at large in such county or sub-division.

Sec. 3. The County Judge shall order an election to take place in the several voting precincts of his county, when the petition is for a whole county, and at such place or places within the sub-division to be affected by said election, as he may designate, if the petition is for a sub-division thereof, and he shall order said election to take place at a time named in said order, not less than thirty days after the date thereof, which election shall be carried on as in case of the election of county officers, and the voters desiring to put this act in operation in their county or sub-division thereof, shall place upon their ballots the words, "For the stock law," and those opposed shall place upon their ballots the words, "Against the stock law."

Sec. 4. At the time of the issuance of the order of election, the

County Judge shall, if the election be for a sub-division of the county, designate proper persons, the same to be freeholders, to hold said elections, who shall have the power to appoint their own clerks, and it shall be the duty of the person or persons holding said election, on the tenth day after said election, to make due return of all the votes cast at their respective voting places or precincts in said county or sub-division thereof, for and against said proposition, to the County Judge of said county, who shall, in the presence of the County Clerk and at least one Justice of the Peace or two respectable freeholders of the county, count said returns and ascertain the result of said election; and if a majority of the votes cast at said election shall be in favor of the proposition, it shall be the duty of said County Judge to issue his proclamation declaring the result of said election, which proclamation shall be posted at the court-house door of said county, and said election and proclamation shall have the force and effect to put this act in full operation in said county or sub-division thereof, within thirty days after the issuance of said proclamation.

Sec. 5. That if at any such election the proposition be defeated, the vote shall not again be taken in said county or sub-division thereof for the period of twelve months; but at any time after the expiration of said period, the proposition may be again presented and voted upon; provided, that a failure to carry into effect the provisions of this act in said county shall not prevent such election being immediately held thereafter in a sub-division of the same; nor the failure to carry into effect the provisions of this act in a sub-division of the county shall not prevent such election being held immediately thereafter in the county in which said sub-division is situated.

Sec. 6. Should any stock not permitted to run at large enter within the enclosure of any owner or lessee of land entitled to the benefit of this act, without his or their consent, it shall be lawful for the owner or lessee of said enclosure to impound said stock, and it shall be the duty of the owner or lessee of said land to give notice immediately to the owner of said stock of their impounding and detention, and the owner of said stock shall be entitled to the possession of his or her stock on the payment of the expenses incurred in impounding and keeping said stock; provided, that in such county or sub-division said owners or lessees shall not be required to fence against stock not permitted to run at large; and any fence in said county or sub-division which is sufficient to keep out ordinary stock permitted to run at large under this act shall be deemed a lawful fence.

Sec. 7. It shall be lawful for the owner or lessee of such enclosures as are contemplated in this act, to charge the following rates for impounding such stock as are contemplated in this act, to-wit: ten cents per day per head for hogs; ten cents per day per head for goats; and five cents per head per day for sheep; provided, that nothing in this act shall be so construed as to authorize the detention or impounding of any animals not absolutely within the enclosure; and, provided further, that if no owner can be found for any stock as contemplated in this act, it shall be the duty of him or them so impounding stock, as contemplated in this act, to proceed as with stray stock provided for in the estray law of the State of Texas; and further provided, that if the owner or agent of stock thus impounded, after being notified, shall fail or refuse to pay the fees for the same, the taker up may proceed to sell them, after having given notice as in Constables' sales, to the highest bidder,

for cash; and after paying said fees and expenses of sale, shall pay the balance to the owner or agent of said stock.

Sec. 8. When such stock as are contemplated in this act shall have made their way into any such inclosures as are contemplated by the provisions of this act, and shall have committed any damage within such inclosures, after a proper assessment of such damage by two disinterested freeholders of the county, the owner or lessee of such premises may bring suit for damages, as otherwise provided by law against the owner or owners of such stock, in any court of competent jurisdiction.

Sec. 9. If any person whose fence is insufficient under this act, shall, with guns, dogs or otherwise, maim, wound or kill any cattle, or any horse, mule, jack or jennet, or procure the same to be done, such person or persons so offending shall give full satisfaction to the party injured for all damages by such person or persons sustained, to be recovered as in other suits for damages; provided, this section shall not be so construed as to authorize any person in any event to maim, kill or wound, any horse, mule, jack, jennet or cattle belonging to another.

Sec. 10. That all acts and parts of acts in conflict with this act, be, and the same are hereby repealed.

Approved August 15, 1876.

Takes effect ninety days after adjournment.

CHAPTER XCIX.—An Act supplementary to “An Act to create and organize the county of Somerville,” approved March 13, 1875.

Section 1. Be it enacted by the Legislature of the State of Texas, That whereas, there was an error in the spelling of the name of Somerville, said name having really been intended to be Somervell; therefore this act hereby corrects such spelling, and hereafter said county now known as Somerville shall be known as Somervell county.

Approved August 15, 1876.

Takes effect ninety days after adjournment.

CHAPTER C.—An Act making an appropriation to defray the contingent expenses of the first session of the Fifteenth Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of fifteen thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any money in the State Treasury not otherwise appropriated, to pay the contingent expenses of the first session of the Fifteenth Legislature, and that the approval of the Chairman of the Committee on Printing and Contingent Expenses, countersigned by the President of the Senate and the Speaker of the House of Representatives, to the respective accounts against the two Houses, shall be sufficient authority for the Comptroller to draw his warrant upon the Treasurer for the several amounts charged against said fund.

Sec. 2. Whereas, the appropriation to pay contingent expenses of the Fifteenth Legislature is now exhausted, there is an imperative public necessity that an appropriation should be made without delay; therefore, this act shall take effect and be in force from and after its passage.

Approved August 15, 1876.

Takes effect from its passage.

CHAPTER CI.—An Act to encourage the construction of railroads in Texas by donations of lands.

Section 1. Be it enacted by the Legislature of the State of Texas, That any railroad company heretofore chartered, or which may be hereafter organized under the general laws of this State, shall, upon the completion of a section of ten miles or more of its road, be entitled to receive, and there is hereby granted to every such railroad, from the State, sixteen sections of land for every mile of its road so completed and put in good running order; provided, that no company whose road is of less than three feet gauge shall be entitled to receive any grant of lands under this section; provided, however, that companies constructing railroads on the prismoidal plan shall be entitled to eight sections of land to the mile on the same terms as other roads; provided further, that this act shall not be construed to renew or continue any right to companies who have failed or may fail to comply with the terms of their charters, with reference to the completion of portions of their roads in stated times; provided further, that the provisions of this act shall not be so construed as to grant the aid herein provided for to any railroad that has already received or is otherwise entitled to receive aid from the State to the amount of sixteen sections of land to the mile.

Sec. 2. Any railroad company having completed and put in good running order a section of ten miles or more of its road, may give notice of the same to the Governor, whose duty it shall be to appoint some skillful engineer, if there be no State Engineer, to examine said section of road, and if, upon the report of said engineer under oath, it shall appear that said road is substantially built, and fully equipped for the transportation of both passengers and freight, and that the same is operated by steam, and is constructed of iron rails of not less than thirty pounds to the lineal yard; provided, that rails for prismoidal roads shall not weigh less than twenty-two pounds to the lineal yard, and has been constructed in accordance with the provisions of its charter, or of the general laws under which it may be constructed, and of the general laws in force regulating railroads; thereupon it shall be the duty of the Commissioner of the General Land Office to issue to said company certificates of six hundred and forty acres of land each, equal to sixteen sections to the mile of road so completed; whereupon said company may apply to the District Surveyor of any land district in this State to survey such lands out of any of the unappropriated public land in his district; said surveys shall be made in alternate sections, or half sections, as nearly square as practicable, one section for the company, and one for the State, for the benefit of the public school fund; a map of all such surveys shall be returned with the field notes to the General Land Office, when the Commissioner of the General Land Office shall number contiguous surveys with even and odd numbers, and shall issue to the company patents for the odd sections of said surveys.

Sec. 3. All lands acquired by railroad companies under this act shall be alienated by said companies, one-half in six years and one-half in twelve years from the issuance of patents to the same, and all lands so acquired by railroad companies, and not alienated as herein required, shall be forfeited to the State and become a part of the public domain, liable to location and survey as other unappropriated lands; provided further, that the State shall retain the right to regulate the rates of freight

and passengers' fare by general law on all roads accepting a grant of land under this act.

Sec. 4. That there being no law authorizing State aid in construction of railroads now in force, an imperative public necessity and an emergency exist for the immediate passage of this act, and it is hereby declared that this act take effect and be in force from and after its passage.

Approved August 16, 1876.

Takes effect ninety days after adjournment.

CHAPTER CII.—An Act fixing the times of holding the District Courts of the Seventh Judicial District of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Spring terms of the District Court of the Seventh Judicial District of the State of Texas shall be holden at the times hereinafter specified, to-wit: In the county of Smith on the second Monday in March, and may continue in session six weeks; in the county of Henderson on the sixth Monday after the second Monday in March, and may continue in session two weeks; in the county of Van Zandt on the eighth Monday after the second Monday in March, and may continue in session three weeks; in the county of Wood on the twelfth Monday after the second Monday in March, and may continue in session three weeks; in the county of Upshur on the sixteenth Monday after the second Monday in March, and may continue in session three weeks; in the county of Gregg on the nineteenth Monday after the second Monday in March, and may continue in session two weeks. That the Fall terms of said courts shall be holden at the times hereinafter specified, to-wit: In the county of Smith on the second Monday in September, and may continue in session six weeks; in the county of Henderson on the sixth Monday after the second Monday in September, and may continue in session two weeks; in the county of Van Zandt on the eighth Monday after the second Monday in September, and may continue in session three weeks; in the county of Wood on the twelfth Monday after the second Monday in September, and may continue in session three weeks; in the county of Upshur on the second Monday in January, and may continue in session three weeks; in the county of Gregg on the third Monday after the second Monday in January, and may continue in session two weeks.

Sec. 2. That an imperative public necessity and emergency exists to conform the times for holding the courts in said District to the laws of an act detaching Rains county therefrom; therefore this act shall take effect and be in force from and after its passage.

Approved August 16, 1876.

Takes effect from its passage.

CHAPTER CIII.—An Act to provide for the election of Justices of the Peace, and to define their powers and jurisdiction.

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be elected by the qualified electors of each Justice's precinct in the several counties of this State, at each biennial election, one Justice of the Peace, who shall hold his office for two years, and until his successor shall be elected and qualified; provided, that in any precinct in which there may be a city of eight thousand or more inhabitants, there shall be elected two Justices of the Peace.

Sec. 2. All vacancies in the office of Justices of the Peace shall be filled by the Commissioners' Court until the next general election for such offices.

Sec. 3. Justices of the Peace shall have and exercise original concurrent jurisdiction with other courts in all cases arising under the criminal laws of this State, except misdemeanors involving official misconduct, in which the punishment shall be by fine and the maximum does not exceed two hundred dollars; and in civil matters of all cases where the amount in controversy is two hundred dollars or less, exclusive of interest, of which exclusive original jurisdiction is not given to the District or County Courts. They shall also have power to foreclose mortgages and enforce other liens on personal property where the amount in controversy shall not exceed two hundred dollars, exclusive of interest. They shall also have the power to take forfeitures of all bail bonds given for the appearance of any parties at their courts, regardless of the amount, where the conditions of said bonds have not been complied with. They shall also have the power to impose fines upon defaulting witnesses and jurors, not to exceed twenty-five dollars; provided, that no final judgment shall be entered against the parties to any bail bond, or against defaulting witnesses or jurors until such parties have been served with writ of scire facias requiring them to appear and show cause (at the next term after such forfeiture shall have been taken, or such fines imposed), why such judgment nisi should not be made final against them. They shall also have and exercise jurisdiction over all other matters not herein enumerated, that may be cognizable before a Justice of the Peace under the laws of this State.

Sec. 4. If any person shall make an entry into any lands, tenements or other real property, except in cases where entry is given by law, or shall make any such entry by force, or if any person shall wilfully and without force, hold over any lands, tenements or other real property, after the termination of the time for which such lands, tenements or other real property were let to him, or to the person under whom he claims, after demand made in writing for possession thereof, by the person or persons entitled to such possession, such person shall (be) adjudged guilty of forcible entry and detainer, or of forcible detainer (as the case may be), within the intent and meaning of this act. Any Justice of the Peace of any county in this State, shall have jurisdiction of any case arising under this section, and on complaint upon oath, of the party aggrieved, or his authorized agent, shall immediately issue his summons to the Sheriff or any legally authorized officer of his county, commanding him to summon the person against whom such complaint is made, to appear before such Justice, at a time and place named in such summons, not more than ten nor less than six days from the time of issuing such summons, which said summons shall be served at least five days before the return day thereof, by reading the same to the defendant, or by leaving a copy of the same with some person over the age of sixteen at his usual place of abode; and the said Justice shall also at the same time issue a precept to the Sheriff or other officer as aforesaid, commanding him to summon a jury of six men, freeholders and otherwise qualified jurors of the county to appear before him on the day set for trying said complaint, to hear and try the same, and if any of the jurors so summoned shall fail or refuse to attend or be challenged, then the said Justices may order the Sheriff or other legal officer to complete the number by summoning and return-

ing others immediately. The Sheriff or other officer shall return to the said Justice the summons and precepts as aforesaid, on the day assigned for trial, and shall state on the back of said summons how the same was served, and on the back of said precept the names of the jurors if a jury has been demanded, and if the defendant does not appear and answer, the Justice shall proceed to try the said cause *ex parte*, or may in his discretion postpone the trial to a time not exceeding six days, and the said Justice shall issue subpoenas for witnesses, and shall proceed to try said cause as in other cases of trial before Justices of the Peace. The complaint shall describe the lands, tenements or other possessions in question so as to identify the same, and the Justice of the Peace shall keep a record of the proceedings had before him, and if the defendant shall be found guilty he shall give judgment thereon for the plaintiff to have restitution of the premises and damages at the rate of five dollars per day for every day after the notice in writing has been served on the defendant, and his costs; provided, this shall not deprive the plaintiff of a suit to recover rents and other damages, and shall award his writ of restitution; and if a verdict is given in favor of the defendant, judgment shall be given against the plaintiff for costs, and executions may issue therefor; and no writ of restitution shall issue until the expiration of two days from rendition of judgment.

Sec. 5. Every Justice of the Peace shall keep a docket in which he shall enter all examinations and trials for criminal offenses before him; the nature of the offense; the time when the examination was had; stating whether such trial was by jury or by himself; the verdict of the jury, if any; the judgment rendered by the Justice, and the time when it was rendered, and how the same was executed. He shall also keep a docket in which he shall enter: First—The titles of all suits commenced before him. Second—The time when the first process was issued against the defendant, when it was returnable, and the particular nature thereof. Third—The time when the parties, or either of them, appeared before him, either without citation or upon return thereof. Fourth—A brief statement of the nature of the plaintiff's demand or claim, and the amount claimed, and a brief statement of the nature of the defense made by the defendants (if any). Fifth—Every adjournment, stating at whose request and at what time. Sixth—The time when the trial was had, stating whether the same was by a jury or by the Justice. Seventh—The verdict of the jury (if any). Eighth—The judgment rendered by the Justice, and the time of rendering the same. Ninth—All applications for setting aside judgment or granting new trials, and the order of the Justice thereon, with the date thereof. Tenth—The time of issuing execution, the name of the officer or person to whom it was directed and delivered, and the amount of debt, damages and costs; and when any execution is returned he shall note such return on said docket, with the manner in which it was executed. Eleventh—All stays and appeals that may be taken, and the time when taken.

Sec. 6. If from any cause whatever, a Justice of the Peace shall vacate his office, all books and papers appertaining thereto shall be delivered to the person appointed and qualified to fill such vacancy, whenever demanded by him, who shall, upon receiving such books and papers, proceed with all judgments, executions and unfinished business connected with said office, in like manner as if the same had been commenced by himself. Any person or persons having the possession of any books or papers belonging or appertaining to the office of a Justice

that has become vacant, who shall wilfully neglect or refuse to deliver them to the person appointed and qualified to fill such vacancy, when demanded by him, may, upon the motion of any person interested in such books or papers, be attached and imprisoned by order of the County Judge or any Judge of the District Court of the State, until he shall so deliver such books and papers; provided, that such motions shall be supported by affidavit, and three days previous notice thereof shall be given to the person or persons against whom such motion is made.

Sec. 7. Every Justice of the Peace qualified under the provisions of this act, shall demand of his predecessor all books and papers that may be in his possession belonging or appertaining to his office, and upon receipt of such books and papers said Justice shall proceed with all executions, judgments and unfinished business therein contained, in like manner as if the same had been commenced before himself; and any person or persons having possession of any such books or papers, who shall neglect or refuse to deliver them when so demanded, may be proceeded against in like manner as provided for in Section six of this act.

Sec. 8. Every suit in the court of a Justice of the Peace shall be commenced in the precinct in which the defendant, or one or more of several defendants, resides, except that suits for the possession of real property must be commenced in the precinct where the property, or a part thereof, is situated; suits for the recovery of rents must be commenced in the precinct where the rented premises, or a part thereof, are situated, or where the defendant resides, or where the cause of action, or a part thereof, accrued; or if the suit is for a tort, in the precinct in which the defendant resides, or in which the injury was inflicted. A defendant may be sued before a Justice of the Peace in the county or precinct in which the contract, by its terms, is to be performed, or in which the defendant resides. A suit against an executor, administrator or guardian to establish a demand for money against the estate which he represents may be commenced before the Justice of the Peace at the county seat of the county where the estate is administered, or in the precinct where the executor (or) administrator resides; provided, that all such suits shall be brought in the county where the administration or guardianship is pending. A suit against a private corporation created by or under the laws of this State may be commenced in any precinct where it has a place of business, or in which its chief officer resides, or in which the liability was incurred or the cause of action arose. A suit against a private corporation created by or under the laws of any other State or county must be commenced in a precinct in which there is property of such corporation, or in which there is an agency thereof, or in which the cause of action, or a part thereof, arose. A suit against the owners of a steamboat or other vessel may be commenced in any precinct where the boat or vessel may be found, or where the cause of action arose or the liability was contracted or accrued. If there be no Justice of the Peace qualified to try the suit in the precinct where the defendant resides, or in which he might be sued under the provisions of this act, the suit may be commenced before a Justice of the Peace of any other precinct in the County. A suit against a railroad or canal company, or an owner of a line of mail stages or coaches, for any injury to person or property upon the road, canal or line of stages or coaches of the defendant, or upon a liability as a carrier, may be brought in any precinct through which the road, canal, or line of stages or

coaches may pass, or in any precinct where the route of such railroad, canal, stages or coaches may begin or terminate. A person who has no fixed residence may be sued in any precinct in the county where he may be found. The residence of a single person is where he or she boards; provided that residents of incorporated cities and towns may be sued before any Justice of the Peace within the limits of the corporation.

Sec. 9. Any party or parties to a suit before a Justice of the Peace shall be entitled to a change of venue to a Justice of the Peace at the county seat, unless he is similarly disqualified, in which event it shall be to the nearest Justice of the Peace in the county not subject to the same objection, or otherwise disqualified, on his or her or their affidavit, supported by two other credible persons, to the effect that they do not believe that the persons applying for such change of venue can have a fair and impartial trial before the Justice or in the Justice's precinct where the suit is pending.

Sec. 10. All process from a Justice of the Peace, except in criminal cases, shall be under the hand of such Justice, directed to some lawful officer, whose duty it shall be to execute and return the same. All such process shall be returnable, except in cases where it is otherwise provided for by law, to some regular term of such Justice's Court, and shall be served by leaving a copy thereof with the defendant at least five days before the return day, exclusive of the day of service, and when suit is brought against a private corporation, county, city or town, the copy of the citation shall be delivered to the chief officer or director or managing agent of such private corporation, the Clerk of the County Court of such county, or Mayor of such city or town. The voluntary appearance of a defendant is equivalent to personal service of the citation and a waiver of all defects therein. Whenever in any civil suit before a Justice of the Peace, the plaintiff, his agent or attorney, shall make oath in writing before such Justice of the Peace, that the defendant is absent from this State, or that he is a transient person, so that the ordinary process of law cannot be served upon him, such Justice shall issue a citation, directed to some lawful officer, commanding him to cite the defendant to appear at a regular term of his Court, named in citation, to answer the plaintiff's complaint, stating the nature and amount thereof; such citation shall be returnable to the regular term of such Justice's Court therein named and shall be published in some newspaper printed in the county, if there be one, for at least three successive weeks before the return day; if there be no newspaper printed in the county, then it shall be published in like manner, in some newspaper printed in the nearest county where a newspaper is published. In cases of emergency any Justice of the Peace may depute any person of good character to execute any process, civil or criminal: provided, that in every such case, the Justice shall certify on the back of such process, that the person is so deputed by him, and the person so deputed shall take and subscribe an oath that he will execute such process according to law, which oath, with the certificate of the Justice that it was administered, shall be endorsed on or annexed to such process. In all suits brought in a Justice's Court against two or more defendants jointly liable, and where one or more of the defendants reside out of the county where suit is instituted, the Justice of the Peace before whom suit is brought shall issue process to the Sheriff or any Constable of the county or counties where such defendant or defendants are alleged to reside; and the officer to whom

such process is directed shall serve the same as in other cases, and make his return to the court from which the process issued. Where there are two or more defendants in a suit, and one or more are served with process in due time, and others not so served, the plaintiff may either discontinue as to those not so served, and proceed against those that are, or he may continue the suit until the next term of the court, and take new process against those not served; and no defendant, against whom any suit may be discontinued, according to the provisions of this section, shall be thereby exonerated from any liability under which he was, but may, at any time, be proceeded against as if no such suit had been brought, and no such discontinuance entered as to such defendants; provided, that this section shall not be so construed as to allow a plaintiff to discontinue as to the principal and take judgment against the endorser or surety, who is jointly sued.

Sec. 11. Any Justice of the Peace before whom any suit or proceeding is pending may, for good cause shown by either party and supported by affidavit, continue the same to the next term of his court, and if such cause or proceeding is such as can be tried by such Justice at any other time than at a regular term, he shall have the like power to continue the same for a reasonable time. When both parties in any suit before a Justice of the Peace appear in person, or by agent or attorney, at the time appointed for the trial thereof, or at the time to which it may have been continued, if the amount in controversy shall not exceed ten dollars, or if the amount in controversy shall exceed ten dollars, and neither party shall make application to have the cause tried by a jury, the Justice shall proceed to hear the allegations and proofs of the parties, and the defendant, upon giving notice thereof to the plaintiff before the trial commences, shall be allowed to present and prove any claim or demand not exceeding two hundred dollars, exclusive of interest, against the plaintiff that is similar in its character to the claim or demand of the plaintiff, and the suit shall be determined by the Justice, as from the testimony shall seem to be right. If it shall appear from the testimony that the plaintiff is entitled to recover, judgment shall be entered in his favor for such amount as shall appear to be due him with costs; but if it shall appear from the testimony that the defendant is entitled to recover, then judgment shall be entered in his favor for such amount as shall appear to be due him (if any), with costs. If the amount in controversy shall exceed ten dollars, and either party shall make application to have the case tried by jury, then the same shall be so tried in like manner as hereinbefore provided, and upon the return of the verdict of the jury, the Justice shall enter judgment thereon with costs; provided, however, that whenever it shall appear on any such trial that the defendant's claim or demand was acquired after the commencement of the plaintiff's suit, the defendant shall be liable for all the costs.

Sec. 12. The pleading in a Justice's Court shall be oral, except where either party desires to plead any of the following matters, which must be contained in a written statement under oath, before the plaintiff announced ready for trial. First—That the suit is not commenced in the proper precinct. Second—That the plaintiff hath not legal capacity to sue. Third—That the party is not entitled to recover in the capacity in which he sues. Fourth—That there is another suit pending in this State between the same parties for the same cause of action, or counter claim. Fifth—That there is a defect of parties, plaintiff or

defendant. Sixth—That a written instrument, purporting to be signed by him or by his authority, was not executed by him or by his authority. Seventh—That an endorsement or assignment of a written instrument was not made by the party by whom it purports to have been made, nor by his authority. Eighth—A denial of partnership, whether the same be on the part of the plaintiff or defendant. In all proceedings before a Justice of the Peace, in which either party may be entitled to a jury, and shall make application for one, such jury shall be composed of six men, and the Justice shall forthwith issue a writ, directed to some lawful officer of the county, commanding him to summon forthwith six legally qualified jurors to serve as a jury, and if any person so summoned shall fail or refuse to attend, he may be fined by the justice three dollars, for the use of the county, for such failure or neglect, after being cited to do so, and not being able to show good cause for such failure or neglect. In all trials, whether civil or criminal, each party shall be entitled to three peremptory challenges, and also any number of challenges for cause, which cause shall be judged of by the Justice. If from challenges or any other cause, a sufficient number of persons are not in attendance, the Justice shall order some lawful officer to summon a sufficient number of qualified jurors to make up the jury.

Sec. 13. When a jury is empaneled, the Justice shall administer to them an oath or affirmation in form as follows: "You and each of you do solemnly swear (or affirm as the case may be) that you will well and truly try the cause about to be submitted to you, and a true verdict render therein, according to the law and the evidence, so help you God." Whenever a jury has been summoned in a Justice's court, the same jury may be called on to try all causes before such Justice in which a jury is required on the same day, without the necessity of a new writ in each case; provided, however, that jurors shall be sworn for each cause. In all cases before Justices of the Peace, other than prosecutions for offenses against the laws of this State, the party applying for a jury shall, before the trial commences, pay a jury fee of three dollars, which shall be equally divided between the jury trying the cause, and if the party paying such fee shall recover judgment, the jury fee shall be taxed in the bill of costs, and when collected, shall be refunded to him; and in all cases, civil and criminal, before a Justice of the Peace, which shall be tried by jury, when the jury fee is not required to be paid before the trial commences, a like jury fee shall be taxed in the bill of costs, and when collected, shall be equally divided between the jurors who tried the same.

Sec. 14. In all suits before a Justice of the Peace, it shall be his duty, on the application of either party, to issue subpoenas for witnesses residing in the county, and all such subpoenas shall be executed by the officer to whom they may be directed, by reading the same to the witness, and shall be returned on or before the time when the witness is required to attend, showing how the same has been executed. Justices of the Peace shall have power to enforce the attendance of witnesses, and compel them to give evidence in their courts, by attachment and imprisonment; provided, that in civil cases no witness shall be attached, fined or imprisoned unless he shall have refused to obey a subpoena after having been tendered his fees for one day's attendance before the day of the trial of any civil suit before a Justice of the Peace. Upon all trials before a Justice of the Peace, if any exceptions are taken to any deposition or evidence, the same shall be decided by the Justice. All witnesses who are subpoenaed to attend a Justice's court shall be en-

titled to receive one dollar per day for each day's attendance, which, if claimed by the witness at the time of trial, shall be taxed in the bill of costs against the party cast in the suit.

Sec. 15. Whenever in any civil suit, before any Justice of the Peace, the evidence of a female is required, or the evidence of any witness residing in the county, who is unable by reason of age, infirmities or sickness to attend the court, or the evidence of a witness residing out of the county, the party interested may take the deposition of any such witness, by filing with the Justice before whom such suit is pending, interrogatories to such witness, and serving a copy of the same on the opposite party, his agent or attorney, with a notice that he intends to apply for a commission to take the answers of the witness to such interrogatories. Such notice and copy may be served by any lawful officer of the county, or by any other person, but when served by any other person than an officer, an affidavit shall be endorsed on or annexed to such notice by the person serving the same, stating the fact of the service of such notice, and a copy of interrogatories, which affidavit, unless disapproved, shall be evidence of such service; and the opposite party may file cross-interrogatories with the Justice at any time before the commission issued.

Sec. 16. At the expiration of five days from the service of any such notice and interrogatories, on the application of the party who filed the same, his agent or attorney, it shall be the duty of the Justice to issue a commission, with a copy of the interrogatories and cross-interrogatories, if any have been filed, directed to some Notary Public, Clerk of the District or County Court of the county where such witness resides, requiring such Notary Public or Clerk to take the answers of such witness to the interrogatories and cross-interrogatories that accompany such commission, to cause the witness to be sworn to his answers, and to subscribe them; and every Notary Public or Clerk of the District Court to whom any such commission may be directed, shall execute the same according to the directions therein contained, and for that purpose he shall have like powers as Notaries Public and Clerks of the District Court have to execute commissions to take depositions when issued from the District Court. He shall certify under his hand and official seal, the manner in which he has executed such commission, and seal up such certificate and answer with the commission and interrogatories, write his name across the seal of the envelope, direct the same to the Justice from whom the commission issued, and forward it either by mail or private conveyance. If sent by mail, he shall cause the Postmaster or his deputy, mailing the same, to endorse thereon that he received it from the hands of the officer who took such answers; if sent by private hands, the person delivering the same to the Justice shall make affidavit in writing before such Justice that he received the package from the hands of the officer who took such answers, and that it has undergone no change since. All evidence so taken and returned to any Justice's Court may be read in evidence on the trial of the suit on which it was taken, and shall have the same force and effect as if the witness were examined in open court; provided, the answers are responsive to the interrogatories; and provided, also, that the interrogatories and answers shall be subject to all legal exceptions; but when such depositions are filed with the Justice before the trial commences, no exceptions shall be heard as to the manner of taking and returning such depositions, unless they are taken before the

trial commences. All the rules of evidence prescribed for the government of District Courts, where the same do not conflict with the provisions of this act, shall govern the proceedings in Justice's Courts, so far as the same are applicable.

Sec. 17. Any Justice may, for a good cause shown, supported by an affidavit in writing, grant a new trial in any civil suit tried before him, whenever he shall consider that justice has not been done in the trial of such case; provided, however, that all applications for a new trial shall be made within ten days after the rendition of judgment; and one day's notice of the application shall be given to the opposite party, his agent or attorney; provided, also, that not more than one new trial shall be granted to either party. And in all cases where a new trial shall be granted, the cause shall be continued to the next term of the court. All judgments and final orders given by any Justice of the Peace, in any suit or prosecution, civil or criminal, shall be given in open court. Any person may appear before any Justice of the Peace and confess a judgment for any amount within the jurisdiction of a Justice of the Peace without the issuance of any citation; and all such confessions of judgment shall be recorded in like manner as other judgments.

Sec. 18. When a defendant who has been served with a citation from a Justice of the Peace, according to law, shall neglect to appear at or before ten o'clock a. m. of the return day of the citation, at or before the same hour of any day to which the cause may have been continued, the Justice shall proceed in the following manner: First—If the plaintiff's cause of action is liquidated, and proved by any instrument in writing, purporting to have been executed by the defendant, the Justice shall, whether the plaintiff appear or not, after allowing the proper credits for all payments endorsed on such instrument in writing, render judgment by default against the defendant for the amount which shall appear by such instrument in writing to be due to the plaintiff, together with the costs of suit. Second—If the plaintiff's cause of action is not liquidated, and the plaintiff appear in person, or by agent or attorney, the Justice shall proceed to hear his allegations and proofs, and shall determine the cause as shall appear from the testimony to be right; and if it shall appear, from such testimony, that the plaintiff is entitled to recover, judgment shall be rendered by default against the defendant, for such amount as the testimony shows the plaintiff to be entitled to, with costs; but if it do not appear that the plaintiff ought to recover, judgment shall be given for the defendant, against the plaintiff, for costs. Third—If the plaintiff fail to appear at or before 10 o'clock a. m. of the return day of the citation, or at or before the same hour of any day to which the cause may have been continued, except in the case hereinbefore provided, the Justice may, upon motion of the defendant, his agent or attorney, render judgment of non-suit against the plaintiff, with costs.

Sec. 19. Every Justice of the Peace shall have power, upon good cause being shown, supported by affidavit, to set aside a judgment by default or by non-suit, at any time within ten days after the same was rendered; provided, that one day's notice of such application shall be given to the opposite party, his agent or attorney, by the party applying, and in such case the suit shall be continued to the next term of such Justice's Court; and provided further, that all motions, where notice is required to the opposite party, shall be filed with the Justice of the Peace in writing. In all cases where a suit shall be brought before a Justice of the Peace

for the recovery of specific articles, on the trial thereof, the jury or Justice, as the case may be, shall, if they find for the plaintiff, assess the value of such articles separately; and if the plaintiff recover, judgment shall be rendered for the specific article or articles, if to be had, but if not, then for their value, and the Justice shall issue thereon his writ, directed to some lawful officer, commanding him to put the plaintiff in the possession of the article or articles so recovered, if to be found, but if not, then to proceed to make the value of such article or articles with the legal interest from date of judgment, and costs as under execution, and every Justice shall from time to time, when required by a party having a judgment in his court, issue such executions or other writs as may be necessary to enforce such judgment, until the same shall have been satisfied. No Justice shall render a judgment upon any attachment or sequestration unless the defendant shall have been cited either personally or by publication.

Sec. 20. All judgments hereafter rendered by any Justice of the Peace shall operate as a lien upon all the real estate of the defendant situated in the county where such judgment shall have been rendered, whenever a certified copy of such judgment shall be filed for registration in the office of the Clerk of the County Court of such county; and it shall be the duty of such Clerk to record certified copies of such judgments as may be filed with him for registration at the earliest practicable period, in the book used in said office for the record of mortgages, and to cause a regular and alphabetical index to be made of the names of the plaintiffs and defendants in said judgments, and also a reference to the page on which such judgment is recorded.

Sec. 21. That any party, his agent or attorney, may appeal from any final judgment in any civil cause rendered by a Justice of the Peace to the County Court of the county in which such final judgment shall have been rendered, upon notice thereof being given in open court; provided, that the amount of the judgment appealed from or the amount in controversy shall exceed twenty dollars, exclusive of costs; provided further, that the party appealing shall, within ten days after the rendition of said judgment, file with such Justice a bond, with one or more good and sufficient sureties, in a sum at least double the amount of such judgment (if any) and interest and costs, payable to the appellee, conditioned that the party appealing shall prosecute his appeal to effect, or shall pay and satisfy the judgment or decree that may be rendered against the obligors in such bond; and in all cases where an appeal shall be taken from a Justice's Court to the County Court, it shall be the duty of the Justice from whom such appeal shall be taken immediately to make out a transcript of all the entries made on his docket in such case and file the same, together with all the original papers of the cause, with the Clerk of the County Court on or before the first day of the term of such court next after such appeal was taken; but if there is not time for such transcript and papers to be filed at such first term, then they shall be so filed at the next succeeding term of said court; provided, however, there shall be no appeal from the Justices' Courts in actions of forcible entry and detainer and forcible detainer; but either party in such cases being dissatisfied with the judgment of the court, may take the same to the County Court for trial *de novo* by writ of certiorari, by making affidavit in writing, setting forth sufficient cause to entitle him to said writ, and entering into bond with sufficient sureties within ten days after the rendition of such judgment, to be ap

proved by the Clerk of said court, payable to the adverse party, conditioned that said party procuring said writ will prosecute the same with effect, and in case of failure, to pay all costs and damages occasioned by the proceedings under such writ of certiorari.

Sec. 22. A Justice of the Peace may grant a stay of execution on any judgment for money rendered by himself on a civil suit for three months; provided, the person against whom such judgment was rendered, shall with one or more good and sufficient sureties, to be approved by such Justice, appear before him and acknowledge themselves and each of them bound to the successful party in such sum as shall secure the amount of the judgment, interests and costs, which acknowledgment shall be entered by the Justice on his docket, and shall have the force and effect of a judgment against the person making the acknowledgment; upon which execution shall issue for the amount of the original judgment, interest and costs, in case the same shall not be paid on or before the expiration of such stay; provided, however, that no such stay shall be granted unless the same is applied for within ten days after the entry of the original judgment. All executions issued by a Justice of the Peace shall be directed to some lawful officer of the State, and shall be returnable to his court in sixty days. It shall be the duty of the officer to whom any such execution is directed, to execute and return the same, on or before the return day thereof; and all the provisions of the laws regulating executions from the District Courts, where the same are not inconsistent with the provisions of this act, shall apply to and govern executions from Justices of the Peace, so far as the same are practicable.

Sec. 23. No Justice of the Peace shall issue an execution in any case where the judgment may be for money, except in prosecutions for criminal offenses and for costs, before the eleventh day after the day on which judgment was rendered, unless the party in whose favor judgment was given, shall have filed an affidavit with the Justice, setting forth that he believes the party against whom the judgment was rendered, will within ten days sell or otherwise dispose of or remove his, her or their property out of the county; whereupon, it shall be the duty of said Justice to issue an execution forthwith. Upon service of any certiorari being made on a Justice of the Peace, he shall make out a certified copy of the entries in the cause on his docket, and transmit the same with the original papers to the County Court, on or before the first day of the term next thereafter.

Sec. 24. When a stay of execution upon any judgment rendered in the Justice's court is taken, the same shall not prevent the taking of a writ of certiorari; but the defendant shall have the right to take out his writ of certiorari to the Justice's court at any time within ninety days from the decision of the cause by the Justice of the Peace. Every person who shall have a cause of action against another within the jurisdiction of a Justice of the Peace, who shall make oath in writing before such Justice that he is unable to pay the costs of such action, shall be entitled to all process necessary for the trial of such action, and to have a trial thereof free of costs. No suit shall be brought before any Justice of the Peace where he may be interested, or where he may be related to either the plaintiff or defendant, within the third degree of consanguinity or affinity, but in all such cases suit shall be brought before the nearest Justice not so interested or related; and in all cases pending be-

fore any Justice where he is thus disqualified from sitting in the case, any Justice in the county may sit and try the same.

Sec. 25. Each Justice of the Peace shall hold a term of his court once in each month, and may transact such business out of said term as is authorized by law; and the Justices of the Peace shall hold their courts at such times and places as may be prescribed by the Commissioners' Courts, and such Justices may hold their courts from day to day until all business shall be disposed of. Should the office of the Justice of the Peace within any county of this State become vacant by death, resignation or otherwise, it shall be lawful for any Justice of the Peace within said county to proceed to try and dispose of all such unfinished business as may be on the docket of such Justice who may have vacated his office as aforesaid, until a successor shall have been appointed and qualified. If, from sickness or absence from the county, any Justice of the Peace shall fail to hold a regular term of his court, then, and in that case, any other Justice of the Peace within the same county shall be and is hereby authorized to preside in the place and stead of such sick or absent Justice, and to discharge, perform and transact all such business as may be necessary during such absence. If from any cause whatever the regular term of a Justice's court should not be held at the time fixed by law, the business pending on the Justice's docket shall stand continued until the next regular term thereof, and all business not disposed of at a regular term of such court shall likewise stand continued until the next regular term thereof.

Sec. 26. Justices of the Peace shall have the same power, in cases within their jurisdiction, as Clerks of the District Court, to issue writs of attachments, sequestration and garnishment, and all laws regulating such writs in the District Court shall be held applicable to Justices' courts.

Sec. 27. The plaintiff in any civil suit, before process issues, or any time before final judgment, upon motion of the defendant, or any officer of the court interested in the costs accruing in such suit, may be ruled to give security for the costs; and if such rule be entered against the plaintiff, and he fail to comply therewith on or before the first day of the next term of the court, the suit shall be dismissed, unless the party ruled shall make and file an affidavit that he is unable to give such security. All bonds given as security for costs shall have the force and effect of judgments against all the obligors for the said cost. Executors and administrators of deceased persons' estates, and guardians, shall not be ruled to give security for costs in any suit to recover money due or property belonging to the estate; and no security shall be exacted of executors or administrators of deceased persons' estates in appeals taken in suing for such money or property, or in defending suits brought against such estates for money or property. Justices of the Peace shall keep a fee book in which shall be taxed all costs accruing in any suit, whether civil or criminal.

Sec. 28. Justices of the Peace shall be commissioned by the Governor to act as Justices of the Peace in their respective precincts, and also to act as Notaries Public. They shall also discharge all the duties of Coroner, except such as devolve upon Constables by Section 21 of the Constitution. They shall be authorized to solemnize the rites of matrimony.

Sec. 29. Upon complaint being made before any Justice of the Peace, or any other officer authorized by law to administer oaths, that an of-

fense has been committed in the county which a Justice of the Peace has jurisdiction finally to try, the Justice or other officer shall reduce the same to writing, and cause the same to be signed and sworn to by the complainant, and it shall be duly attested by such Justice or other officer before whom it shall be made; and when made before such Justice, or when returned to him made before any other officer, the same shall be filed by him. Said complaint shall state the name of the accused, if his name is known, and the offense with which he is charged shall be stated in plain and intelligible words, and it must appear that the offense was committed in the county, and the complainant must show, from the date of the offense stated therein, that the offense is not barred by limitation.

Sec. 30. Whenever the requirements of the preceding article have been complied with, the Justice of the Peace shall issue a warrant for the arrest of the accused; said warrant shall be deemed sufficient if it contains the following requisites: First—It shall issue in the name of the State of Texas, and shall be deemed sufficient without regard to form. Second—It shall be directed to the Sheriff or any Constable, or some other person specially named, commanding him to take the body of the accused of an offense, to be dealt with according to law. Third—It must specify the name of the person whose arrest is ordered, if it be known; if not known, then some reasonable, definite description must be given of him. Fourth—It must state that the person is accused of some offense against the laws of the State, naming the offense. Fifth—It must be signed by the Justice, and his office be named in the body of the warrant or in connection with his signature.

Sec. 31. The Justice, when he has good cause to believe that an offense has been, or is about to be, committed against the laws of this State, may summon and examine any witness or witnesses in relation thereto; and if it shall appear, from the statement of such witness or witnesses, that an offense has been committed, the Justice shall reduce said statements to writing, and cause the same to be sworn to by such witnesses; and thereupon said Justice shall issue his warrant of arrest against such offenders; which warrant shall be returnable before said Justice at such time as he may direct, and if said Justice has final jurisdiction of the same, he shall proceed to try; otherwise he shall discharge the accused, if the law and the facts of the case warrant it; or if the offense charged is bailable, cause him to give bond for his appearance at the next term of the District or County Court; which bond, together with all the papers in the case, shall be returned to the Clerk of said court by said Justice.

Sec. 32. Witnesses summoned under the preceding article, who shall refuse to appear and make such statement of facts under oath, shall be guilty of a contempt of court and may be fined in any sum not exceeding one hundred dollars, and attachment may issue for such witnesses.

Sec. 33. A warrant of arrest may be executed by any Sheriff or Constable in any county in this State, or other person specially authorized by the Justice to execute the same, wherever the defendant may be found. Every peace officer is bound to execute all process and orders directed to him from a Justice of the Peace, and if he shall fail or refuse to do the same, he may be fined by said Justice for contempt of court in any sum not exceeding one hundred dollars. Bail is the security given by a person accused of an offense that he will appear and

answer before the proper court the accusation brought against him. This security is given by means of a bail bond. A bail bond shall be sufficient if it contain the following requisites: First—That it is made payable to the State of Texas. Second—That the obligors thereto bind themselves that the defendant will appear before the proper court to answer the accusation against him. Third—That the offense of which the defendant is accused be distinctly named in the bond, and that it appear therefrom that he is accused of some offense against the laws of the State. Fourth—That the bond be signed by the principal and sureties, or in case all or either of them cannot write, then that they affix thereto their marks. Fifth—That the bond state the time and place, when and where the accused binds himself to appear and the court before which he is to appear. Sixth—That it shall show the amount of money for which the principal and his sureties are bound for. In stating the time, it is sufficient to specify the term of the court, and in stating the place, it is sufficient to specify the name of the court and of the county.

Sec. 34. Bail bonds may be taken by the Justice, or the officer having the defendant in custody, in all cases where the Justice has final jurisdiction over the case, but if the Justice has not jurisdiction finally to try the same, he shall take the bail bond in conformity with the code of criminal procedure.

Sec. 35. When the defendant is brought before the Justice, it shall be the duty of such Justice, unless a jury be waived, to issue a venire facias to the Sheriff or any Constable of his county, commanding him to summon a jury of six men for the trial of the case before him, who shall assess the fine; and when such jury shall be summoned they shall remain in attendance upon the court and sit as jurors in all cases that may come up for hearing, until discharged by said court, for which they shall be allowed one dollar each per day, to be paid out of the County Treasury, upon a certificate of such Justice of the number of days so served by them; provided, that if the defendant appear before such Justice and plead guilty to the charge or complaint against him, or a jury be waived, the Justice shall, if desired by the defendant, proceed to assess the fine without the intervention of a jury.

Sec. 36. Upon the conviction of a defendant, tried before any Justice of the Peace, a jury fee of three dollars shall be taxed against him and collected as other costs.

Sec. 37. In all cases where the defendant may be convicted before a Justice of the Peace of a misdemeanor, he shall be entitled to an appeal from the judgment of said Justice, to the County Court of the county where such judgment was rendered, and notice of such appeal shall be given in open court, upon the overruling of a motion for a new trial by such Justice.

Sec. 38. Whenever a defendant is desirous of appealing as provided in the preceding section, he shall file with the Justice a bond in double the amount of the fine and costs imposed upon him, conditioned that he shall prosecute his appeal with effect, and shall pay such fine and costs as shall be awarded against him by the County Court as well as other costs that may have been adjudged against him in the court below.

Sec. 39. Whenever complaint be made before any Justice of the Peace that an offense has been committed in any county other than the county in which the complaint shall be made, it shall be the duty

of such Justice to issue his warrant for the arrest of the person named in such complaint, directed to the Sheriff or any Constable of his county, commanding such officer to bring the person named in said warrant before such Justice, whose duty it shall be to take bail of such person, if the offense charged be a misdemeanor, and send the bond so taken, to the Clerk of the County Court of the county where such offense is alleged to have been committed; but if the offense charged in said complaint be a felony, such Justice shall make his warrant returnable to any Justice of the Peace in the county where such offense was committed.

Sec. 40. Justices of the Peace shall be governed by the laws now in force in regard to proceedings in Justices' Courts in criminal and civil cases, where the same do not conflict with the provisions of this act.

Sec. 41. It shall be the duty of the Justice of the Peace to proceed with the trial of civil cases in regular order as they appear upon the docket; provided, that by consent of both parties any civil case may be set for trial for a day certain. The Justice of the Peace shall fix a time for the trial of criminal cases, either before or after the trial of civil cases, and give notice to the County Attorney, of the time fixed.

Sec. 42. That all laws and parts of laws in conflict with this act or any of its provisions be and the same are hereby repealed.

Sec. 43. Whereas, an immediate public necessity exists for conforming the jurisdiction and powers of Justices of the Peace to the new Constitution, and an emergency for the immediate passage of this law, therefore this act shall take effect and be in force from and after its passage.

Approved August 17, 1876.

Takes effect from its passage.

CHAPTER CIV.—An Act to reserve from location, in the event of forfeiture, the public domain now reserved for the benefit of railroads or railroad companies.

Section 1. Be it enacted by the Legislature of the State of Texas, That all reservations of the public domain for the benefit of any railroad or railroad company heretofore made by law, and the right to which reservation has lapsed since January 1, 1872, or may hereafter lapse, are hereby declared then to have been severed from the mass of the public domain, and in the event of forfeiture to the State, are, by this act, expressly reserved from location, except the three millions of acres of lands reserved for constructing a new State Capitol and other public buildings, and to actual settlers under the pre-emption laws of this State, and whenever a pre-emption survey of one hundred and sixty acres, or of eighty acres, shall be made for any settler, a like quantity shall be made adjoining said pre-emption survey, for the public free school fund of Texas. The settler having the pre-emption survey made shall pay to the surveyor the fees for both the pre-emption survey and the one for the school fund, and also the fees for recording the field notes of both surveys, and said field notes shall be returned to the General Land Office together; provided, that no right of any such railroad company to such reservation shall be in any manner impaired until a forfeiture has been judicially declared thereon.

Sec. 2. As this act cannot otherwise fully accomplish its purpose,

an emergency exists, and it is hereby enacted that this act take effect and be in force from and after its passage.

Approved August 17, 1876.

Takes effect from its passage.

CHAPTER CV.—An Act to provide for supplying the State Capitol buildings and Capitol grounds with water.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor, Comptroller and State Treasurer are hereby authorized and empowered to contract for the means of securing a lasting supply of water and fire hydrants for the Capitol buildings and Capitol grounds, at all seasons of the year, and also said water for two years, with such ornamental water fixtures as the said board, in its discretion, may select. Said contract shall not involve an expenditure of more than thirty-six hundred dollars.

Sec. 2. As the security of the public buildings and the preservation of the trees and shrubbery on the Capitol grounds require that the water supply contemplated by this act be at once secured, on account of said emergency and necessity this act shall take effect and be in force from and after its passage.

Approved August 17, 1876.

Takes effect ninety days after adjournment.

CHAPTER CVI.—An Act to authorize the Clerk of the Court of Appeals to appoint a deputy.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Clerk of the Court of Appeals be and he is hereby authorized to appoint a deputy, whose duties shall be the same as those of the Clerk.

Sec. 2. As the present Clerk of the Court of Appeals is sick, and is at present unable to attend to the duties of his office, an emergency exists for the immediate passage of this act; it is therefore enacted that this act take effect and be in force from and after its passage.

Approved August 17, 1876.

Takes effect from its passage.

CHAPTER CVII.—An Act to punish Drunkenness.

Section 1. Be it enacted by the Legislature of the State of Texas, That any person who shall get drunk, or be found in a state of intoxication in any public place, shall be deemed guilty of a misdemeanor, and on conviction before a court of competent jurisdiction shall be fined in a sum not more than one hundred dollars for each and every such offense.

Approved August 17, 1876.

Takes effect ninety days after adjournment.

CHAPTER CVIII.—An Act to fix the time of holding the next General Election.

Section 1. Be it enacted by the Legislature of the State of Texas, That the next general election in the State of Texas shall be held on the first Tuesday next after the first Monday in November, A. D. 1878, and general elections shall be held every two years thereafter, at such places and under such regulations as may be prescribed by law.

Sec. 2. That all laws conflicting with the provisions of this act be and the same are hereby repealed.

Approved August 17, 1876.

Takes effect ninety days after adjournment.

CHAPTER CIX.—An Act to better regulate grand juries and juries in civil and criminal cases in the courts of the State, and to amend Sections 9 and 17 of an act entitled: "An Act to regulate grand juries and juries in civil and criminal cases in the courts of the State," approved August 1, 1876.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Jury Commissioners appointed and serving as such at each term of the District Court, in addition to the other duties required of them by law, shall, at the same time and place at which they shall select jurors for the next term of the District Court, make out for the use of the Jury Commissioners of the County Court, a complete list of the names of all the persons selected by them as grand and petit jurors, and shall place said list in an envelope and seal the same, and write their names across the seal; and they shall address said envelope to the Jury Commissioners of the County Court of the proper county, and they shall deliver said envelope, without unnecessary delay, to the District Judge in open court.

Sec. 2. The District Judge shall, without unnecessary delay, deliver said envelope to the County Clerk or one of his deputies, and, at the time of delivery, administer to said Clerk or deputy, as the case may be, the following oath: "You do solemnly swear that you will, to the best of your ability, safely keep this envelope; and that you will neither open the same, nor allow it to be opened, except as provided by law; and that you will cause it to be delivered to the Jury Commissioners of the County Court next hereafter appointed in and for this county."

Sec. 3. At the first term of the County Court thereafter held, at which Jury Commissioners are appointed, it shall be the duty of the County Clerk to deliver said envelope to the Jury Commissioners or any one of them appointed at said term, and take a receipt therefor; and said receipt shall state whether the seal of said envelope be broken or not.

Sec. 4. After the Jury Commissioners appointed by said County Court shall have assembled for business, as provided by law, they shall open said envelope and read said list of names, and no person named on said list shall be selected as a juror by said Jury Commissioners.

Sec. 5. The Jury Commissioners appointed and serving as such at any term of the County Court, in addition to the other duties required of them by law, shall at the same time and place at which they select jurors for the County Court, make out for the use of the Jury Commissioners for the District Court, a complete list of the names of all persons selected by them as jurors; they shall place said list in an envelope and seal the same, and write their names across the seal, and address said envelope to the Jury Commissioners of the District Court of the proper county, and deliver said envelope without unnecessary delay to the County Judge in open court.

Sec. 6. The County Judge shall, without unnecessary delay, deliver said envelope to the District Clerk or one of his deputies, and at the time of delivery administer to said Clerk or his deputy, as the case may be, the following oath: "You do solemnly swear that you will, to the

best of your ability, safely keep this envelope, and that you will neither open the same, nor allow it to be opened, except as provided by law, and that you will cause it to be delivered to the Jury Commissioners of the District Court next hereafter appointed in and for this county."

Sec. 7. At the first term of the District Court thereafter held, it shall be the duty of the District Clerk to deliver said envelope to the Jury Commissioners, or any one of them, appointed at said term, and take a receipt therefor; and said receipt shall state whether the seal of said envelope be broken or not.

Sec. 8. After the Jury Commissioners, appointed at said term of the District Court, shall have assembled for business, as provided by law, they shall open said envelope and read said list of names, and no person named on said list shall be selected as a juror by said Jury Commissioners.

Sec. 9. It shall be the duty of the Jury Commissioners, in both the District and County Courts, before leaving the apartment in which they select jurors, to destroy said list of names, and it shall be unlawful for them, or any of them, to make known to any person the name of any person on said lists.

Sec. 10. That Section nine of an act entitled "An Act to regulate grand juries and juries in civil and criminal cases, in the courts of the State," approved August 1, 1876, be so amended as hereafter to read as follows:

"Sec. 9. Within thirty days of the next term, and not before, the Clerk shall open the envelopes and make out a fair copy of the jury list for each week, and give the same to the Sheriff or his deputy, who shall, at least three days prior to the first day of the next term, summon the persons to attend on Monday of the week for which said persons were drawn as petit jurors, by giving personal notice to each juror, or by leaving written notice at the juror's place of residence with a member of his family, over sixteen years old, and in either event the Sheriff shall name the day and week said juror is required to appear. The lists shall be returned by the Sheriff on the first day of the term, with a certificate thereon, of the date and manner in which each juror was summoned, from each of which lists thirty persons, more or less, as the Judge may direct, shall be selected for the week named in the list, from those summoned and in attendance, and not excused by the Judge, in open court, in the order in which their names appear thereon, who shall compose the regular panel of that week.

Sec. 11. That section seventeen of an act, entitled, "An Act to regulate grand juries and juries in civil and criminal cases, in the courts of the State," approved August 1, 1876, be so amended as hereafter to read as follows:

"Sec. 17. No jury shall be required in any civil case in the District or County Court, unless the party demanding a jury shall have deposited by nine o'clock a. m., on the day of the court set by the Judge for the trial of jury causes, a jury fee of five dollars if in the District Court, and three dollars if in the County Court; and all causes in which jury fees have been deposited, shall be at once entered by the Clerk in their regular order on a "jury case trial docket." Said causes, except appearance, shall be tried, or disposed of for the term, in their regular order, before those cases in which no jury has been demanded and jury fee deposited; provided, that in civil cases filed before the passage of this act, parties desiring a jury shall not be required to pay the jury fee until the case be called for trial."

Sec. 12. Whereas, there is an imperative public necessity existing for the immediate operation of the provisions of this act, "as well as an act entitled, 'An Act to regulate grand juries and juries, in civil and criminal cases, in the courts of the State,' " approved August 1, 1876, thus creating an emergency, therefore, that this act, "as well as the act to which this is supplementary," take effect, and be in force, from and after its passage.

Approved August 18, 1876.

Takes effect from its passage.

CHAPTER CX.—An Act to amend an act entitled "An Act to organize the County Courts, and define their powers and jurisdiction," approved June 16, 1876.

Section 1. Be it enacted by the Legislature of the State of Texas, That Sections three and seven of the above entitled act be so amended as hereafter to read as follows:

"Sec. 3. The County Court shall have exclusive original jurisdiction of all misdemeanors, except misdemeanors involving official misconduct, and except such misdemeanors as are punishable by fine only, and in the punishment of which the highest fine to be imposed may not exceed two hundred dollars; that in cases where the offense charged is within the jurisdiction of the County Court, the court shall hear and determine the case, notwithstanding the proof may show an offense not within but below the jurisdiction as herein conferred; provided, however, that nothing contained in this section shall be so construed as to prohibit the District Court from hearing and finally determining all charges of felony, whether the proofs develop a felony or misdemeanor, and said courts shall have exclusive original jurisdiction in all civil cases where the matter in controversy shall exceed two hundred dollars in value, and not exceeding five hundred dollars, exclusive of interest; and jurisdiction in the forfeiture and final judgment of all bonds taken in criminal cases of which the County Court has jurisdiction and concurrent jurisdiction with the District Court when the matter in controversy shall exceed five hundred dollars and not exceed one thousand dollars, exclusive of interest; but shall not have jurisdiction of suits to recover damages for slander or defamation of character, nor of suits for the recovery of lands, nor of suits for the enforcement of liens upon land, nor of suits in behalf of the State, for escheats, nor of suits for the forfeiture of charter of corporations and incorporated companies. They shall have appellate jurisdiction in cases civil and criminal, of which Justice's Court have original jurisdiction, but of such civil cases only where the judgment of the court appealed from, or the amount in controversy, shall exceed twenty dollars, exclusive of costs, and in criminal cases of which Mayors' and Recorders' Courts have jurisdiction, and after motion for new trial in the court below has been overruled and notice of appeal given in open court. In all appeals from Justices', Mayors' or Recorders' Courts, there shall be a trial de novo in the County Court, and when the judgment rendered or fine imposed, or the amount in controversy, shall not exceed one hundred dollars, exclusive of interest and costs, such trial shall be final; but if the judgment rendered, or fine imposed, or the amount in controversy, shall exceed one hundred dollars, an appeal therefrom may be taken to the Court of Appeals. In all

cases, civil and criminal, of which the County Court has exclusive or concurrent original jurisdiction, and in all cases appealed from Justices' Courts, if in said last named cases the judgment rendered or fine imposed, or the amount in controversy in the County Court, shall exceed one hundred dollars, an appeal shall lie to the Court of Appeals, under the same rules and regulations as are prescribed by law or the regulation of appeals from the District to the Supreme Court of the State of Texas. In all proceedings of administration and guardianship, an appeal shall lie to the District Court, under such rules and regulations as are prescribed by the law regulating administrations of estates of decedents and wards. In all counties where there is a Criminal District Court, appeals in criminal cases from Justices', Mayors' and Recorders' Courts, and all other inferior courts and tribunals, shall lie directly to such Criminal District Courts.

Sec. 2. That Section 7 of said act shall hereafter read as follows:

"Sec. 7. All causes, both civil and criminal, and proceedings of administration and guardianship, now pending in the several District Courts of this State, and all cases, civil and criminal, remaining on the dockets of the several criminal courts which have been abolished by the adoption of the present Constitution of which the County Courts have original or appellate jurisdiction, are hereby transferred to the County Courts for trial, and it shall be the duty of the Clerks of the District Courts, upon the order of the District Judge, made either in term time or vacation, to certify the original papers and copies of all orders, a statement of the costs incurred in such cases, to the Clerk of the County Court, who shall immediately docket said causes, and they shall stand for trial the same as if they were originally instituted in, or appealed to, said Court, provided, that in all such causes and proceedings of administration and guardianship, where the Judge of the County Court may be disqualified to try the same, they shall remain in the District Court for trial and settlement; provided, further, that all papers and records of the estates of deceased persons and minors shall be turned over to the custody of the Clerk of the County Court."

Sec. 3. That Section 22 of said act shall hereafter read as follows:

"Sec. 22. That the County Courts of each county in this State shall have a seal, with a star of five points in the centre, and the words, "County Court (insert the name of the county) County, Texas," engraved thereon, an impression of which seal shall be attached to all writs and other process, except subpoenas issuing from said court, and shall be used in the authentication of all official acts of the Clerk; said seal shall be procured by the County Commissioners' Court of the county.

Sec. 4. The necessity for more definitely fixing the jurisdiction and powers of the County Courts, and giving the Clerks of said Courts the power to issue the writ of attachment, sequestration and garnishment, makes it an emergency that this act go into immediate effect; it is therefore declared that the same shall go into immediate force.

Approved August 18, 1876.

Takes effect from its passage.

CHAPTER CXI.—An Act to provide for the levying, assessing and collecting of taxes to pay the interest and the principal of bonds heretofore issued by cities to aid in the construction of railroads and other works of internal improvement.

Section 1. Be it enacted by the Legislature of the State of Texas, That all taxes collected under this act, or under an act entitled: "An Act to authorize counties, cities and towns to aid in the construction of railroads and other works of internal improvements," approved April 12, 1871, shall be applied solely to the objects for which they were levied, under the direction of the State Comptroller, as follows: First—To the payment of the expenses of assessing and collecting the same. Second—To the payment of the annual interest of such bonds, and not less than two per cent. of the principal; and if there be any excess on hand after making the above payments for the current year, it shall be used in the purchase and cancellation of said bonds.

Sec. 2. All taxes levied under this act, or the act of 1871, above referred to, shall be assessed and collected by the same officers whose duty it is to assess and collect the other municipal taxes, who shall receive the same rates of commission allowed for assessing and collecting the ad valorem tax of such city. The same remedies shall be used to enforce the assessment, collection and paying over of such taxes as are, or may hereafter, be provided by law to enforce the assessment, collection and paying over of other municipal taxes.

Sec. 3. The officer whose duty it is to collect the aforesaid taxes shall give bond, with two or more sufficient sureties, to be approved by the Mayor and Board of Aldermen of such city, in a sum fifty per cent. greater than the estimated annual amount of said taxes, which bond shall be payable to the State, and shall be conditioned for the faithful assessing, collecting and paying over of said tax into the State Treasury as provided by law; and the said Collector shall be amenable and subject to all laws enacted to secure the honest and faithful performance of the duties of Collectors of Taxes.

Sec. 4. It shall be lawful for the Collector to receive in payment of the taxes herein specified current money or the matured coupons of the bonds, for the payment of which such tax may have been levied.

Sec. 5. The Collector of Taxes levied under the provisions of the act above recited shall pay over to the State Treasurer, at the beginning of each and every month, all moneys or coupons he may have collected during the preceding month; deducting his legal commissions on the amount so paid, and shall make a report of his collections to the Mayor and City Council at its first regular meeting in each month.

Sec. 6. If it shall be ascertained at any time that the tax which has been levied for the payment of the city bonds issued under the provisions of the above recited act, is insufficient to pay the annual interest and two per cent. annually of the principal of such bonds, besides the expenses of assessing, collecting and paying over such tax, it shall be the duty of the Comptroller to inform the Mayor of said city of the fact, and it shall be the duty of the City Council, and they shall, upon such information, levy such additional tax and cause the same to be collected, as will be sufficient to make such payments; which levy shall be continued in force until the whole amount of principal and interest of said bonds shall have been fully paid.

Sec. 7. That all laws or parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 8. As the credit of the several cities in this State, and through them, the credit of the State, has been and is now suffering on account of the failure of such cities to collect the taxes levied to pay the interest upon the bonds issued under the provisions of the aforesaid act, and the consequent default in the payment of said interest, creates an imperative public necessity, and an emergency for the early enforcement of this act; therefore, this act shall be in force and take effect from and after its passage.

Approved August 18, 1876.

Takes effect ninety days after adjournment.

CHAPTER CXII.—An Act to provide for the guardianship of persons and estates of minors, persons of unsound mind and habitual drunkards.

Section 1. Be it enacted by the Legislature of the State of Texas, That the County Courts shall have power either in term time or vacation to appoint guardians of the persons and estates of minors, persons of unsound mind and habitual drunkards; transact business appertaining to such estates, and settle accounts of such guardians.

Sec. 2. Male persons under twenty-one years of age, and females under twenty-one years of age, and unmarried, are minors.

Sec. 3. The term, "persons of unsound mind," when used in this act, includes idiots, lunatics and insane persons. A habitual drunkard is one whose mind has become so impaired by the use of intoxicating liquors, or drugs, that he is incapable of taking care of himself or his property.

Sec. 4. The parents, or the survivors of them, except in certain cases, have a natural right and duty to take care of the persons of their minor children.

Sec. 5. The mode which the law provides for taking care of the persons and estates of minors, persons of unsound mind and habitual drunkards, is by the aid of a guardian, appointed by the County Court.

Sec. 6. The minor is called the ward of the guardian; and the latter is said to have the guardianship of the ward; or of his person, or of his estate, as the case may be.

Sec. 7. Incidental to the right and duty of the parent or guardian to take care of the person of a minor, it is their duty to see that he is educated in a manner suitable to his condition, and if necessary for his support, that he learn a trade or adopt some useful profession.

Sec. 8. Where the parents live together, the father is the natural guardian of the person of the minor children by the marriage, and is entitled to be appointed guardian of their estates.

Sec. 9. Where the parents do not live together, their rights are equal, and the guardianship of their minor children shall be assigned to one or the other, according to the circumstances of each case, taking into consideration the interest of the child alone.

Sec. 10. Where one of the parents is dead, the survivor is the natural guardian of the persons of the minor children, and entitled to be appointed guardian of their estates.

Sec. 11. When the surviving father or mother dies, he or she may appoint, by will or by written declaration, any person not disqualified, to be the guardian of the persons of his or her minor child or children;

and such person shall be entitled to be appointed guardian of their estates.

Sec. 12. Where the minor is an orphan, and no one has been appointed by the surviving parent to be the guardian, the nearest ascendant in the direct line, if not disqualified, is entitled to the guardianship of the person of the orphan, and to be appointed guardian of his estate.

Sec. 13. When there is more than one ascendant in the same degree, in the direct line, they are equally entitled, and the guardianship shall be given to one or the other, according to circumstances, taking into consideration the interest of the orphan alone.

Sec. 14. In case the orphan has no ascendant in the direct line, the guardianship shall be given to the nearest of kin in the collateral line, who comes immediately after the presumptive heir or heirs of the orphan; and if there be two or more in the same degree, the guardianship shall be given to one or the other, according to circumstances, taking into consideration the interest of the orphan alone.

Sec. 15. When an orphan arrives at the age of fourteen years, he becomes entitled to choose his own guardian, to be approved by the court, except where a guardian has been appointed by the lawful will of the parent; but if, after being personally cited, he fails to appear and choose a guardian, the appointment shall be made by the court.

Sec. 16. The following persons cannot be appointed guardians: First—Minors, except the father and mother. Second—Persons whose conduct is notoriously bad. Third—Persons of unsound mind. Fourth—Habitual drunkards. Fifth—Those who are themselves, or whose father or mother are parties to a lawsuit, on the result of which the condition of the minor or part of his fortune may depend. Sixth—Those who are debtors to the minor, unless they discharge the debt prior to the appointment. The sixth subdivision does not apply to the father or mother.

Sec. 17. All persons are parties to a proceeding for the appointment of a guardian for a minor.

Sec. 18. It follows from the preceding section that any person has a right to appear and contest the appointment of a particular person, or to contest any proceeding which he deems to be injurious to the ward, or to commence any proceeding which he considers beneficial to him, being liable for the costs occasioned by him, in case of his failure.

Sec. 19. A proceeding for the appointment of a guardian of the estate of a minor shall be commenced in the county where the parents reside.

Sec. 20. If the parents do not reside in the same county, it shall be commenced in the county where the parent who has the custody of the child resides.

Sec. 21. A proceeding for the appointment of a guardian of the person and estate of an orphan, or of either, shall be commenced in the county where the surviving parent resided at the time of his death, or where the orphan is found, or where his principal estate may be.

Sec. 22. Where a minor or person of unsound mind resides out of the State, and owns property in this State, guardianship of the estate of such minor or person of unsound mind may be granted when it is made to appear that a necessity exists for such guardianship, in like manner as if said minor or person of unsound mind were a resident of this State; and the court making such grant of guardianship shall take all such action, and make all such orders in reference to the estate of

said ward, for the maintenance and support, or education and care of said ward, out of the proceeds of said ward's estate, in like manner as if the ward had resided in this State, and guardianship of the person of said ward had been granted by the court, and the ward had been sent abroad by order of the court, for education or treatment.

Sec. 23. A proceeding for the appointment of a guardian is commenced by written application.

Sec. 24. Such application may be made by any person who is interested in the welfare of the minor.

Sec. 25. At the term after notice shall have been given by citation duly posted, to all persons interested in the welfare of such minor, the application is ready for trial.

Sec. 26. If application be not made by any person entitled to claim the guardianship, a proper person, who is not so entitled, may be appointed.

Sec. 27. Before the appointment of a guardian of either the person or estate of a minor, over fourteen years of age, he shall be cited.

Sec. 28. When it shall come to the knowledge of the County Judge that there is, within his county, any minor without a guardian of his person or estate, he shall cause a citation to be posted to all persons interested in the welfare of such minor, to show cause why a guardian for such minor should not be appointed.

Sec. 29. On the return of such citation duly posted, and if the minor be fourteen years of age, of a citation duly served on him, the court shall appoint a guardian for such minor.

Sec. 30. All citations which are not to be served on particular persons named shall be for all persons interested in the welfare of the minor, naming him.

Sec. 31. The bond of the guardian of the person of a minor shall be in an amount to be fixed by the court, not to exceed one thousand dollars, to the effect that he will faithfully discharge the duties of guardian of the person of the minor.

Sec. 32. The bond of the guardian of the estate of a minor shall be in an amount equal to double the estimated value of the property belonging to the estate, to the effect that he will faithfully discharge the duties of guardian of the estate of such minor according to law.

Sec. 33. The surviving parent may provide, by will regularly probated, that a guardian appointed by the will shall not be required to give bond for the management of the estate devised by said will, and the direction shall be observed, unless it be made to appear at any time that such guardian is mismanaging the property, or about to betray his trust.

Sec. 34. Where the same person is appointed guardian of the person and estate, only one bond shall be given, containing the substance required in Sections 31 and 32.

Sec. 35. The guardian shall take an oath faithfully to discharge the duties of guardian of the person (or of the estate, or of the person and estate, as the case may be,) of the minor, according to law, which oath shall be endorsed on the bond.

Sec. 36. Letters of guardianship shall consist of copies of the orders appointing the guardian and approving the bond, with the additional statement that they are given to prove the capacity of ———, to act as the guardian of the person (or of the estate, or of the person and estate, as the case may be). Only one guardian can be appointed of the

person and estate of a minor; but one person may be appointed guardian of the person and another of the estate, where the applicants are equally entitled; provided, nothing in this section shall be held to prohibit the joint appointment of husband and wife.

Sec. 37. The order for the appointment of a guardian for a minor shall specify whether it be of the person or estate, or of both person and estate.

Sec. 38. The guardian of a minor continues in office, unless sooner discharged, according to law, until the minor arrives at the age of twenty-one years, or, being a female, marries.

Sec. 39. Where a married woman may be appointed guardian, she may jointly with her husband, or without her husband, if he be absent from the State, execute such bond as the law requires and acknowledge the same before the Clerk; and such bond shall bind her estate in the same manner as if she were unmarried, but shall not bind her husband as surety unless he sign and be approved as such.

Sec. 40. A bond executed by a person appointed by a will, or surviving husband or wife, under twenty-one years of age, as guardian, shall be as valid as if he or she were of full age.

Sec. 41. All bonds and official oaths shall be immediately recorded and filed.

Sec. 42. Where it is not otherwise provided, a bond shall be required to be given and an oath to be taken at a time specified in the order within ten days, and at least one day before the adjournment of the court.

Sec. 43. A surety may apply to be relieved from his bond, and upon notice to the guardian, he shall be required to give a new bond within ten days, and at least one day before the adjournment of the court, and in the meantime to refrain from acting as guardian, except to preserve the property committed to his charge.

Sec. 44. If a new bond be given and approved, the former surety or sureties so applying shall be discharged from any liability for the misconduct of the principal after the approval of such new bond.

Sec. 45. The remedy upon every bond filed in the County Court may be by petition and citation to the sureties, to show cause why judgment should not be rendered against them in that court; where the liability of the principal has not already been established, he shall be included in the suit.

Sec. 46. Such remedy may be commenced within four years next after the death, resignation, removal or discharge of the guardian, and not after; provided, that infants, persons of unsound mind, married women, persons imprisoned under a sentence of a court for a term less than for life, and their representatives, shall have at least seven years within which to prosecute such remedy, after the removal of their respective disabilities, or after the death of one dying under disability.

Sec. 47. The sureties on a bond are discharged when the whole penalty has been recovered, but not before.

Sec. 48. It is the duty of the guardian, immediately after receiving letters, to collect and take into possession the personal property, books, title papers, and other papers belonging to the estate.

Sec. 49. If the ward held or owned any property in common, or as part owner with another person, the guardian shall be entitled to possession thereof in common with the surviving part owner or part owners, in the same manner as the deceased was entitled thereto in his lifetime.

Sec. 50. It is the duty of every guardian, as soon as he shall have collected the estate, and within thirty days after taking the oath and giving bond, to return a true and perfect inventory of all the real and personal property, books, title papers, other papers and evidences of debt due, or to become due, belonging to the estate.

Sec. 51. The inventory shall describe the property, books and papers, and shall contain a list of the debts due, or to become due, to the ward, stating the names of the debtors, the date of the contract, the amount of interest due thereon, and the rates of interest.

Sec. 52. If any property, books, title papers, or other papers or evidences of debt, were held or owned by the ward in common with another or others, it shall be distinctly stated in the inventory what items thereof were so held, and the names and relationship of the surviving part owners, if any.

Sec. 53. Annexed to such inventory shall be the affidavit of the guardian that it is a full inventory and description of all the real and personal property, books, papers, evidences of debt, and of all debts due, or to become due, belonging to the estate, as far as he has been able to ascertain; and that he was not bound or indebted to the ward in any contract, except as stated in the inventory (if at all).

Sec. 54. Where the guardian dies, the court, on application, shall appoint another.

Sec. 55. Where a guardian wishes to resign, he shall, with such application, present to the court a full and complete account of the condition of the estate, and of his guardianship, verified by his affidavit.

Sec. 56. When such application is filed with the Clerk, a citation shall be issued as follows: First—It shall run in the name of "The State of Texas." Second—It shall be addressed to all persons interested in the guardianship of the estate of ———. Third—It shall state that ———, guardian of said estate, has filed an exhibit of the condition of the estate, an account of his guardianship, and an application for leave to resign. Fourth—It shall notify the persons to whom it is addressed to appear at a certain term of the court, commencing on such a day and month, and contest the account, if they see proper to do so. Fifth—It shall be dated and attested by the Clerk, with the seal of the court attached.

Sec. 57. Such citation shall be published at least once a week, for three successive weeks, in some newspaper in the county, if there be one regularly printed therein; if not, then by posting copies thereof, twenty days before the term, at three of the most public places in the county, no two of which shall be within the same town or city.

Sec. 58. If it appear at the trial that such guardian has accounted for all the estate, according to law, the court shall make an order that he deliver the estate, if there be any remaining in his possession, to some person who shall have been, or may be, appointed in his place, and given bond and taken the oath of guardian. Upon compliance with such order and surrender of his letters of guardianship, the guardian shall be permitted to resign his trust and be discharged.

Sec. 59. Guardians shall be removed in the following cases, without notice, at a regular term of the court: First—When they neglect to return, within thirty days after qualification, an inventory of the estate, as far as the same (has come) to their knowledge. Second—When they have been required to give a new bond, and neglect to do so within the time prescribed. Third—When they have removed from the State.

Sec. 60. A guardian may be removed by the court, of its own motion, or on the motion of any person interested in the ward, after being cited to answer: First—When he fails to return any account which he is required to return by the provisions of this act. Second—When he fails to obey any order of the court or Judge, consistent with this act. Third—When there is good cause to believe that he has misapplied, embezzled or removed, or is about to misapply, embezzle or remove from the State the property committed to his charge, or any part thereof. Fourth—When he is proved to have been guilty of gross neglect or mismanagement in the performance of any of its duties. Fifth—Where he is proved to be disqualified under Section 16.

Sec. 61. When a guardian is removed, the order shall require the estate to be delivered up to some person who has been appointed in his stead, and who shall have previously given bond and taken the oath.

Sec. 62. The order of removal shall state the cause therefor, and shall require the guardian to surrender his letters of guardianship.

Sec. 63. When any person shall have been removed from the guardianship of an estate he shall not be afterwards re-appointed.

Sec. 64. If any guardian die or resign, or his letters be revoked, he or his legal representatives shall account for, pay and deliver to his successor, all property of every kind belonging to the estate of the ward, at such time and in such manner as the court shall order, and in case of a refusal to comply with an order of the court to that effect, the same may be enforced by attachment and punishment, as for contempt.

Sec. 65. Where a guardian succeeds a former guardian, he shall be required to account for all the estate which came into the hands of his predecessor, and shall be entitled to any order or remedy which the court has power to give, in order to enforce the delivery of the estate, and the liability of the sureties of his predecessor for so much as is not delivered. But he shall be excused if it appear that he has used due diligence and failed in whole or in part.

Sec. 66. Where a subsequent guardian proceeds against a former one and his sureties for neglect, he shall be entitled to recover the real damage only caused by such neglect.

Sec. 67. If there be more than one guardian, and letters of one or more of them be revoked, or surrendered, or one dies, the remaining guardian shall discharge all the duties required by law touching such estate, including the recovery from such other guardian and his sureties, or their representatives, of the part of the estate in his hands, or for which he is accountable.

Sec. 68. If any person appointed guardian fails to qualify within the time prescribed by the order of the court, or if a guardianship be vacant by reason of the death, resignation or removal of the guardian, the court, or the Judge thereof, in vacation, may appoint a receiver and make any order that may be necessary for the preservation of such estate, until a guardian be regularly appointed and qualified. Any such order made by a Judge in vacation shall be filed with the Clerk of the proper court and entered of record.

Sec. 69. The guardian, or his heirs, executors, administrators or assigns, shall not dispute the right of the ward to any property that shall have come to his possession as guardian, except such property as shall have been recovered from the guardian, or there be a personal action pending on account of it.

Sec. 70. Where a guardian and his ward are residents of any other

State or Territory of the United States, or of the District of Columbia, or any other country, such guardian may file a full and complete transcript from the records of a court of competent jurisdiction where he and his ward reside, certified by the Clerk of the court in which the proceedings were had, under the seal of the court, if there be one, together with a certificate from the Judge, Chief Justice or Presiding Magistrate, as the case may be, that said attestation is in due form, showing that he has been appointed guardian of the estate of such ward; such transcript may be recorded, and the guardian shall be entitled to receive letters of guardianship of the estate of such minor situated in this State, upon filing a bond with sureties, as in other cases, in double the amount of the estimated value thereof.

Sec. 71. Upon the recovery of the property of the ward, if it be personal property, such guardian may remove it to the place of residence of himself and ward, unless such removal would conflict with the tenure of such property, or the terms and limitations under which it is held; and if it be real property, he may obtain an order for the sale of it, and remove the proceeds; such sale shall be made, returned and confirmed in the same manner as other sales of real estate by guardians.

Sec. 72. Any resident guardian having any of the estate of such ward, may be ordered to deliver the same up to such non-resident guardian.

Sec. 73. There shall be no removal of any of such property, until all the debts known to exist against the estate have been paid or secured by bond payable to, and approved by, the Clerk of the County Court.

Sec. 74. The benefit of the four preceding sections shall not extend to the residents of any State, Territory, District or country, in which a similar law does not exist in favor of the residents of this State.

Sec. 75. The guardian of the person is entitled to the charge and control of the person of the ward, and the care of his support and education, and his duties correspond to his rights.

Sec. 76. The guardian of the estate is entitled to the possession and management of all property belonging to the ward; to collect all debts, rents or claims due him; to enforce all obligations in his favor; to bring and defend suits by or against him. But in the management of the estate, the guardian is governed by the provisions of this act.

Sec. 77. It is the duty of the guardian of the estate to take care of and manage such estate in such manner as a prudent man would manage his own property; and he shall account for all such rents, profits and revenues as the estate would have produced by such prudent management.

Sec. 78. The guardian of the estate shall use due diligence to collect all claims or debts owing to the ward, and to recover possession of all property to which the ward has a title or claim; provided, there is reasonable prospect of collecting such claims or debts, or of recovering such property; and if he neglect to use such diligence, he and his sureties shall be liable for all damages occasioned by such neglect.

Sec. 79. The guardian of both person and estate has all the rights and duties of the guardian of the person and the guardian of the estate.

Sec. 80. The guardian, as soon as practicable, after appraisal, shall sell at public or private sale, all the personal property belonging to the estate, except property exempt from forced sale, specific legacies, and personal property necessary to carry on a plantation or manufac-

tory, giving such credit as he may deem most advantageous to the estate, not exceeding six months, and taking notes, with one or more sufficient sureties, for the purchase money.

Sec. 81. The guardian shall keep, or cause to be kept, a true account of the sales made, making a list thereof, specifying each article sold, the price for which it was sold, and the name of the purchaser, and shall annex to such list an affidavit stating that it is a true account of the sales made by him at the time specified, and shall file it within thirty days after the sale. Such accounts shall be recorded, after allowing one term for objections to be made thereto.

Sec. 82. The laws regulating sales under execution, so far as it relates to the advertisement and sale of personal property, and is not inconsistent with the provisions of this act, shall apply to the advertisement and sale of such property by a guardian; the guardian being substituted for the Sheriff or Constable, the estate for the debtor, and persons interested in the ward only, for the creditor.

Sec. 83. The guardian may sell any of the personal property of the estate at private sale, if it appear to him to be for the interest of the estate; but he shall be responsible for its being sold for a fair price, and shall make return of such sale within thirty days.

Sec. 84. If the guardian shall represent to the court, on oath, that there is wild stock belonging to the estate, which he is unable to collect or command, the court may order that the same be sold at public auction, without taking an inventory or making an appraisement thereof, on such credit as the court may deem reasonable, not exceeding twelve months, taking notes bearing interest at the rate of ten per cent. per annum, from the day of sale, with good and sufficient security for the purchase money.

Sec. 85. Such sale shall be advertised, made, returned and confirmed, the same as sales of real property.

Sec. 86. If there be a plantation or manufactory belonging to the estate, and if the same be not required to be at once sold for the payment of debts, it shall be the duty of the guardian upon an order of the court to carry on such plantation or manufactory, or rent the same, as shall appear to the court to be for the best interest of the estate. In coming to a determination, he shall take into consideration the condition of the estate, and the necessity that may exist for the future sale of such property for the payment of claims or legacies, and shall not extend the time of renting or hiring any of the property beyond what may consist with the speedy settlement of the estate. And any one who is interested in the estate, may, upon good cause shown, after citation to the guardian, obtain an order controlling his action in this particular.

Sec. 87. When the ward owns improved real property, it shall be the duty of the guardian of the estate annually to rent such property for the best price that can be obtained, taking good security for the payment of the rent, and that the tenant will not commit, nor permit any other person to commit waste on the demised premises.

Sec. 88. If the ward own wild or unimproved real property, the guardian may let out the same on improvement leases, not to extend more than two years beyond the majority of the ward, taking security as provided in the preceding section.

Sec. 89. If at any time the guardian shall have on hand any money belonging to the ward, beyond what may be necessary for his education and maintenance, such guardian shall, under the direction of the court,

invest such money in bonds of the United States or of the State of Texas, or loan the same to such person as will give security therefor by mortgage or deed of trust on unincumbered real property in the county, for the highest rate of interest that can be obtained therefor; provided, whenever any guardian may have in his possession money belonging to his ward, he may make application to the County Court for an order to invest said money in real estate, for the benefit of his said ward; said application to be made, and notice of the same to be given in the same manner as applications to sell real estate belonging to minors; and if the court be satisfied, on the hearing of said application, that said investment will be beneficial to said ward, an order may be made and entered to that effect. At the next term of the court after the granting of said order, the investment aforesaid shall be inquired into, and if satisfied that said investment will benefit the estate of said ward, the court may approve the contract, and when titles of said real estate have been made to said guardian, he shall hold the same in trust for his said ward, and shall account for it in the same manner as other realty in his possession originally belonging to the estate of his said ward.

Sec. 90. If the money in the hands of the guardian cannot be invested as herein directed, the guardian shall be liable for the principal only.

Sec. 91. The guardian shall not be personally responsible for money loaned under the direction of the court, on security approved by the court, in case of the inability of the person to whom such money may have been loaned to pay the same, and the failure of the security, unless he has been guilty of fraud or negligence in respect to such loan.

Sec. 92. The guardian of the estate may receive property in payment of any debt due to the ward, in all cases where he shall be of opinion that the interests of the ward will be advanced thereby, being responsible for a prudent exercise of the discretion hereby conferred.

Sec. 93. Where different persons have the guardianship of the person and estate of the ward, the guardian of the estate must pay over to the guardian of the person, semi-annually, a sufficient amount of money for the education and maintenance of the ward, and on failure, shall be compelled to do so by order of the court, after being duly cited.

Sec. 94. The court may direct a guardian to expend, for the education and maintenance of his ward, a specified sum, although such sum may exceed the income of the ward's estate; but without such direction the guardian shall not be allowed, in any case, for the education and maintenance of the ward, more than the clear income of the estate.

Sec. 95. A guardian may pay any claim against the estate of his ward which he knows to be just, without the authentication thereof.

Sec. 96. When a judgment for the recovery of money is rendered in any court against a guardian, to be satisfied out of the property of the ward, the creditor, upon application to the County Court, is entitled to an order for its payment; if there be no funds in the hands of the guardian, and to await the receipt of funds from other sources would involve an unreasonable delay, an order shall be issued for the sale of property sufficient to pay the debt.

Sec. 97. If any guardian shall fail to pay any claim ordered to be paid, when demanded, upon affidavit of the demand and failure to pay being filed with the Clerk, an execution shall be issued for the amount ordered to be paid to such claimant, and costs, against the property of such guardian.

Sec. 98. If the execution be returned not satisfied, the claimant may

institute suit against the sureties of the guardian, in the court where the guardianship is pending, referring to the official bond and the order for payment, the execution and the return thereon, requiring the sureties to appear and show cause why judgment should not be rendered against them for the amount of such claim, ordered to be paid as aforesaid.

Sec. 99. Citation in such suit may be issued to any county in the State, and upon the return thereof, duly served, if good cause to the contrary be not shown, the court shall render judgment against the sureties for the amount of the claim ordered to be paid as aforesaid, and remaining unpaid, and ten per cent. damages thereon, together with interest and costs, and issue execution thereon.

Sec. 100. Any person holding a claim against the estate, secured by mortgage or other special lien, may obtain an order for the sale of the property upon which he has such mortgage or other special lien, or so much thereof as may be required to satisfy the claim, by causing citation to be posted, and the guardian to be cited to appear at the next term of the court, and show cause why such order should not be made.

Sec. 101. Where the income of the ward's estate and the proceeds of personal property sold are insufficient for his education and maintenance, or to pay debts against his estate, the guardian of the person or estate, or any person holding a valid claim, may apply for the issuance of an order for a sale of sufficient amount of the real estate to make up the deficiency.

Sec. 102. Whenever it shall appear that the personal property or proceeds of previous sales are insufficient to pay the claims of creditors and legatees, and expenses of administration, an order shall be made, on the application of the guardian, or of any person interested in the ward, for the sale of enough real property to supply the probable deficiency.

Sec. 103. Such sale shall be ordered to be made of the property which may be deemed most advantageous to the estate to be sold.

Sec. 104. No order for the sale of real property for the payment of debts shall be made, unless notice of the application therefor shall have been published at least once a week for four weeks successively, or if there be no newspaper regularly printed in the county, by citation duly posted, to all persons interested in the ward, to show cause why such sale should not be made.

Sec. 105. It is the duty of the guardian to apply for such order, whenever it appears that the proceeds of the personal property and previous sales of real property will be insufficient to pay the debts and expenses of guardianship.

Sec. 106. If it should appear to the court that the discharge of such special lien out of the general assets, would be beneficial to the estate, the payment may be ordered to be so made, instead of ordering a sale of the property.

Sec. 107. All sales of real property, for the payment of debts, shall be made on a credit of twelve months, except where such sales are ordered for the satisfaction of a mortgage or other lien on the very property, in which case such sales shall be made on such terms as the court may direct, which shall be stated in the order of sale.

Sec. 108. All sales of real property shall be made in the county where the guardianship is pending, unless the real property is situated in another county, in which case the court may order the sale to take place in such county. And in all such cases the sale shall be advertised in both counties.

Sec. 109. The order of sale shall require the sales to be made, and account of sales returned before the next term of the court.

Sec. 110. The advertisement of the time and place of the sale of real property shall be sufficient if it state: First—The time of the sale. Second—The place of the sale. Third—The property shall be so described as to distinguish it from like property. Fourth—The estate to which the property belongs. Fifth—That the same is sold under an order of the court, at what term made, for the payment of debts. Sixth—It shall be signed by the guardian officially.

Sec. 111. The law regulating sales under execution, so far as the same relate to the advertisement and sale of real property and the proceedings incidental thereto, and are not inconsistent with the provisions of this act, shall apply to the sale of such property by guardian, under an order of sale for the payment of debts, the guardian being substituted for the Sheriff, the ward for the debtor, and holder of mortgage for the creditor. The guardian shall keep or cause to be kept a true account of all sales made, making a list thereof, specifying each article sold, the price for which it was sold, and the name of the purchaser, and shall annex to such list an affidavit, stating that it is a true account of the sales made by him at the time specified, and shall file it within twenty (20) days after the sale. Such accounts shall be recorded after allowing one term for objections to be made thereto.

Sec. 112. The court may direct the sale of real property to be made at private sale, for cash or on credit, if it shall appear to be for the interest of the estate. But in all such cases, before the court shall order a confirmation of the sale, it must be shown that it was fairly made, and in conformity to law, and that the sale was made for a fair price.

Sec. 113. At the first term of the court, when such account of sale shall have been returned, the court shall inquire into the manner in which such sale was made; and if it appear to have been fairly made, and in conformity to law, the court shall make an order confirming it, and directing conveyances to be made to the purchasers upon their compliance with the terms of the sale; if it does not appear to have been so made, an order shall be entered setting it aside and ordering a new sale, unless good cause shall have been shown in the meantime why such sale should not be made.

Sec. 114. The terms of sale of real estate in all cases, when made on credit, shall be that the purchaser give his note, bearing ten per cent. (interest) per annum from date, with good personal security, payable in the county, and secured by mortgage on the property purchased; provided, that said mortgage shall be executed at the time the conveyance is made by the guardian to said purchaser.

Sec. 115. The conveyance from the guardian to the purchaser, upon compliance with the terms of the sale, shall recite the decree of confirmation, and the recitation of the order of confirmation.

Sec. 116. If from any cause, the guardian should fail to sell any real property ordered to be sold, at the time specified in the order, he shall report the facts to the court or Judge, accompanied by his affidavit of the truth thereof, and the court or Judge may appoint another day for such sale, and so on, from time to time, until the property is disposed of. When the order appointing another day is made by the Judge in vacation, the same shall be transmitted to the Clerk and be filed by him and entered of record.

Sec. 117. Where any guardian of the estate of a person or minor

shall desire to remove the transaction of the business of the guardianship from one county in this State to another, he may be permitted to do so by an order duly entered.

Sec. 118. Before such order shall be entered, the sureties of such guardian shall be cited to show cause, if any they have, why such removal should not be made; and the guardian shall file a certificate from the Clerk of the county to which the removal is proposed to be made, attested by the seal of the court, that he has filed in such court a certified transcript of all the proceedings in relation to the guardianship.

Sec. 119. The guardian of the estate of a minor shall annually return to the court an account showing: First—Any property that may come to his knowledge or possession, belonging to his ward, which has not been previously inventoried. Second—Any changes in the property belonging to the estate of the ward, which have not been previously reported. Third—A complete account of receipts and disbursements since the last account. Fourth—The money on hand. Annexed to such account shall be the affidavit of the guardian, that it contains a correct and complete statement of the matters to which it relates.

Sec. 120. The guardian of the person, where there is a separate guardian of the estate, shall annually return an account, supported by his affidavit, showing the items of expenditure since the last account, for the education and maintenance of the ward.

Sec. 121. Every account presented to the court by the guardian, shall, without being acted on, be continued until the next term of such court.

Sec. 122. Notice of the filing of such account shall be given by citation to all persons interested in the ward, duly posted; if it purport to be a final account, the citation shall so state.

Sec. 123. The account, with any objections made thereto, may be referred to an auditor, to be examined and re-stated.

Sec. 124. The guardian must produce and file the proper vouchers for every item of credit claimed by him in his account, or support the same by satisfactory evidence.

Sec. 125. If the account be found incorrect, it shall be correctly stated; and when so corrected, or if found correct, it shall be confirmed and entered of record.

Sec. 126. A docket shall be kept, in which shall be entered a list of all guardians, the date of granting letters to each, the times at which each is required to return accounts, and whether or not such returns have been made.

Sec. 127. There shall be put up in a conspicuous place in the office, twenty days before each term of the court, a list of all guardians who are required to return accounts at the next term of the court.

Sec. 128. If any guardian fail to return accounts at the time prescribed by this act, he shall be cited to return the same at the next term of the court, and show cause for not having made the return according to law.

Sec. 129. If the guardian fail to return such account after being cited, and to show good cause for not having made the return according to law, he shall be fined in any sum not exceeding five hundred dollars, for the use of the county, and he and his sureties shall be liable for all fines imposed, and damages sustained, by reason of such failure.

Sec. 130. In the settlement of the account of the guardian, all debts

due the estate which the court is satisfied could not have been collected by due diligence, and which have not been collected, shall be excluded from the computation.

Sec. 131. All necessary and reasonable expenses, incurred by the guardian in the preservation and management of the ward's estate, and all necessary and reasonable expenses incurred by him in collecting claims or debts due the ward, or in recovering property to which the ward has a title or claim, shall be allowed, on proof, to be paid out of the estate.

Sec. 132. Attorneys' fees are allowable as part of the expenses of the guardianship, for services in a controversy or controversies between the estate and other persons, and includes fees for advice or assistance in the guardianship. There may be a controversy without a suit.

Sec. 133. On the application of the ward, when he shall have become of full age, or, being a female, shall have married, it shall be the duty of the court to cite the guardian to appear and make final settlement of the guardianship.

Sec. 134. A special guardian is one who is appointed by a court to take care of the interests of a minor in a suit or special proceeding which is pending or about to be commenced, and to which such minor or person of unsound mind is a proper party.

Sec. 135. A special guardian is appointed by the court, or the Judge or Justice thereof, in which the suit or special pleading is pending or about to be commenced, without notice.

Sec. 136. The duties and powers of the special guardian are the same, in such suit or special proceeding, as those of a general guardian would be.

Sec. 137. The special guardian gives bond and takes an oath to discharge his duties faithfully as a special guardian for the minor in the suit or special proceeding, and to pay over any money or deliver over any property which may come to his possession, according to the order of the court.

Sec. 138. A special guardian is not appointed if there be a general guardian, unless the latter is a party to the same suit or special proceeding in his own right, or has an interest therein adverse to that of the ward.

Sec. 139. The guardian of the person alone is entitled to no compensation.

Sec. 140. The guardian of the estate is entitled to five per cent. upon all sums that he actually receives or pays away in cash; and if he manages a plantation or manufactory for his ward, the court may allow him a reasonable compensation for such service.

Sec. 141. If information be given to the Judge of the County Court that any person in the county is of unsound mind or a habitual drunkard, without a guardian, the court, if satisfied that there is good cause for the exercise of its jurisdiction, shall cause such person to be brought before it, and inquire into the facts by a jury, if the facts be doubtful.

Sec. 142. When any Sheriff or Constable shall discover any person who resides in the county to be of unsound mind, without a guardian, he shall give information thereof, and like proceedings shall be had as directed in the preceding section.

Sec. 143. If it be found by the jury that the person so brought be-

fore the court is of unsound mind, or incapable of managing his own affairs, the court shall appoint a guardian of his person and estate.

Sec. 144. The court may, if just cause appear at any time during the term at which an inquisition is had, set aside the same, and cause a new jury to be summoned to inquire into the facts; but when two juries concur in any case, the verdict shall not be set aside.

Sec. 145. The same person shall be appointed guardian of the person and estate of a person of unsound mind or habitual drunkard.

Sec. 146. The guardian of a person of unsound mind or habitual drunkard shall continue in office, unless sooner discharged according to law, until the ward shall be restored to sound mind or to correct sober habits, or shall die.

Sec. 147. All the provisions of this act relating to the guardianship of the persons and estate of minors, shall apply to the guardianship of persons of unsound mind and habitual drunkards.

Sec. 148. Within thirty days after filing bond and taking the oath, the guardian of a person of unsound mind or habitual drunkard, if such notice shall not have been previously given by a former guardian, shall cause to be published in some newspaper regularly printed in the county, if there be one, a notice that all claims for money not presented to him for allowance within one year from a certain day (which shall be the day on which the filing of the bond and taking the oath were complete), will be postponed until the claims presented within that time are paid; and he shall also, within said time, cause the same notice to be posted in three of the most public places in the county, not within the same city or town, one of which shall be the court-house door. Such notice shall be published at least once a week for four successive weeks.

Sec. 149. If the guardian of a person of unsound mind or habitual drunkard fail to cause notice to be given as prescribed in the preceding section, he shall be liable for any damage which any person may sustain by reason of the failure of such person to present his claim for allowance within the year, unless it appear that such person had notice of the grant of letters of guardianship.

Sec. 150. The term "within the year," and "after the year," as used in this act mean within or after a year from the original grant of letters of guardianship.

Sec. 151. The provisions of this act relative to claims apply, not only to claims for money, but they also apply to claims for uncertain damages for injury or breach of contract, as well as to claims the amounts of which are susceptible of being ascertained by calculation.

Sec. 152. The provisions of this act relative to claims do not apply to legacies or to claims acknowledged by will. But a claim acknowledged by will may be resisted by a creditor, and reduced to the class of a legacy if proved not to have been really due.

Sec. 153. A claim is said to be "allowed" or "rejected" by the guardian, and to be "approved" or "disapproved" by the court; those terms referring, when used by the court, to the claim, and not to the action of the guardian.

Sec. 154. The guardian shall not allow, and the court shall not approve, any claim, except as provided for in Section 95 of this act, unless it be accompanied by an affidavit of the claimant "that the claim is just, that nothing has been paid or delivered towards the satisfaction of such claim, except what is mentioned or credited (if any), that there

are no counter-claims known to affiant which have not been allowed (if any), and that the sum claim is justly due."

Sec. 155. Where the claim is not founded on an instrument in writing or an account, in addition to the statements required by the preceding section the affidavit must state the facts on which the claim is founded.

Sec. 156. Where a claim belongs to a corporation, the cashier, treasurer, or managing agent shall make the affidavit required to authenticate it.

Sec. 157. When an affidavit is made by an officer of a corporation, executor, administrator, trustee, assignee or attorney, it shall be sufficient to state in such affidavit "that he has made diligent inquiry and examination, and that he does verily believe that nothing has been paid and delivered towards the satisfaction of such claim, except the amount credited (if any), that there are no counter-claims which have not been allowed (if any), and that the sum claimed is justly due."

Sec. 158. A claim which the guardian held against the ward at the time of his appointment, or which has since accrued, is exhibited by being filed, verified by the affidavit of the guardian; after which it takes the same course as other claims.

Sec. 159. When a claim is presented to the guardian, properly authenticated, he shall endorse thereon or annex thereto a memorandum in writing signed by him, stating the time of its presentment, and that he allows or rejects it, or what portion thereof he allows, if any.

Sec. 160. The failure or refusal of a guardian to endorse on or annex to any claim presented to him, his allowance or rejection thereof shall be deemed to be a rejection; and in such case the costs, if the claim be established, shall be adjudged against the guardian, to be paid out of his own estate.

Sec. 161. After a claim has been presented to the guardian and allowed, the claimant shall file it with the Clerk of the County Court.

Sec. 162. When a claim, or a part thereof, has been rejected, the claimant, if he does not submit thereto, shall institute suit thereon within ninety days after its rejection by the guardian, or the same shall be barred.

Sec. 163. At each term of the court all claims which have been allowed and filed shall be examined and approved or disapproved by an order duly entered; all claims which have been presented, whether allowed or approved or not, shall be assigned to their proper class. Claims may be referred by the court to an auditor, and the action of the court may be based upon his report.

Sec. 164. At each term of the court, in like manner, all claims which the guardian shall have been sued upon, and shall be established by suit, shall be examined and classed.

Sec. 165. When a guardian is sued upon a rejected claim, the endorsement thereon or annexed thereto of its rejection, shall be taken to be true without proof, unless it be denied under oath.

Sec. 166. Any person interested in the guardianship may appear and contest any of the claims, and shall be entitled to process to compel the attendance of witnesses, as in ordinary suits.

Sec. 167. Although a claim be properly authenticated and allowed, if the court is not well satisfied that it is just, it shall send for persons and papers and may examine the claimant and the guardian under oath. If the court be not entirely convinced in such case by evidence

other than the testimony of the claimant that the claim is just, it shall be disapproved. Suit may be brought to establish a claim which has been disapproved, within ninety days after such disapproval.

Sec. 168. The order of approval of a claim has the force and effect of a judgment.

Sec. 169. A claim is said to be legally exhibited: First—When it is properly presented to the guardian, and after being allowed by him is filed; or, Second—After being rejected by him, suit is commenced thereon.

Sec. 170. A claim is said to be established when it has been allowed by the guardian, and approved by the court; or, when in such suit thereon by the claimant, it has been sustained by the court.

Sec. 171. It is the duty of the guardian to report to the court a list of all judgments and special liens presented to him for allowance; and in like manner all suits for money pending against the ward at the time of the appointment and revived against the guardian, and all claims which have been presented or rejected.

Sec. 172. Claims which have not been legally exhibited within the year, may be exhibited at any time afterwards, before the estate is closed, or suit on such claims would be barred by the general law of limitations.

Sec. 173. The general law of limitations is interrupted: First—By filing a claim which has been allowed. Second—By presenting a claim, and commencing suit thereon within ninety days after its rejection or disapproval.

Sec. 174. Where a claim is lost or cannot be produced, the claimant may make an affidavit of the facts and present it to the guardian, or cause it to be filed with the same effect as the claim itself; but, in such case, the claim must be proved by disinterested testimony produced in court or taken by deposition, before it shall be approved.

Sec. 175. Where, by reason of a claim, being a claim against another person, or other like sufficient cause, it is inconvenient for a claimant to permit the same to remain on file, the court may, after such claim shall have been approved, order a copy thereof to be retained, and certified by the Clerk, and the original to be delivered to the claimant or his attorney.

Sec. 176. A docket shall be kept which shall be known as the claim docket. It shall be ruled at proper intervals from top to bottom, with a short note of the contents at the top of each column. One or more pages shall be assigned to each estate, in proportion to the probable number of claims which will be exhibited against it. In the marginal column shall be entered the names of the claimants, in the order in which their claims are filed, and when they are filed; the second column shall contain the amount of the claim; the third, its date; the fourth, when due; the fifth, the date from which it bears interest; the sixth, the rate of interest; the seventh, when allowed, in whole or in part, by the guardian; the eighth, the amount allowed; the ninth, the date of rejection; the tenth, the date of filing; the eleventh, when approved; the twelfth, the amount approved; the thirteenth, when disapproved; the fourteenth, the class to which the claim belongs; the fifteenth, when established by suit in the court; the sixteenth, the amount of judgment. When the entry is of any act in the court, the docket and the page shall be stated. An index shall be kept, showing the names of the wards, and the page on which the abstract of claims against them will be found.

Sec. 177. The court by which any person of unsound mind or habitual drunkard is committed to guardianship, may make order for the support of his family, and the education of his children.

Sec. 178. If any person shall be furiously mad, or so far disordered in his mind as to endanger his own person, or the person or property of others, it shall be the duty of his guardian, or other person under whose care he may be, and who is bound to provide for his support, to confine him in some suitable place until the first term of the County Court of his county, which shall make such order for the restraint, support and safe keeping of such person as the circumstances shall require.

Sec. 179. If any such person of unsound mind, as in the last section specified, shall not be confined by those having charge of him, or if there be no person having such charge, any Judge of the County, District or Supreme Court, or Justice of the Peace of the county, may cause such insane persons to be apprehended, and may employ any person to confine him in some suitable place until the court shall make further order thereon, as provided in the preceding section.

Sec. 180. The father and mother of persons of unsound mind and habitual drunkards, shall maintain them at their own charge, if able to do so; and the children and grandchildren of such persons shall maintain them at their own charge, if able to do so.

Sec. 181. The expenses attending the confinement of an insane person shall be paid by the guardian out of the estate of the ward, or by the person bound to provide for and support such insane person.

Sec. 182. In all cases of appropriations out of the County Treasury, for the support or confinement of any person of unsound mind, or habitual drunkards, the amount thereof may be recovered by the county from any person, who, by law, is bound to provide for the support of such person of unsound mind or habitual drunkard, if there be any such person able to pay the same.

Sec. 183. If any person shall allege under oath that a person declared to be of unsound mind or a habitual drunkard, has been restored to his right mind, or to correct, sober habits, the court shall inquire into the fact by a jury, if the fact be doubtful.

Sec. 184. If it be found that such person has been reformed or restored to his right mind, he shall be discharged from guardianship, and the guardian shall immediately settle his accounts and deliver up all the property remaining in his hands.

Sec. 185. In case of the death of any such ward, while under guardianship, the power of the guardian shall cease, and he shall immediately settle his accounts and deliver the estate to the person or persons entitled to receive it.

Sec. 186. The following papers shall be copied at length in the record, or in dockets specially provided for the purpose: First—All notices, whether published or posted, with the return thereon. Second—All wills and the testimony on which the same are admitted to probate. Third—All bonds and official oaths. Fourth—All inventories and appraisements. Fifth—All accounts of sales. Sixth—All reports, returns and accounts. Notices shall be copied in connection with the proceedings had upon the return thereof. Proper indexes shall be kept, in the names of the deceased persons and wards, referring to every order, proceeding and recorded paper.

Sec. 187. Every order made in term time or in vacation, shall state whether any opposition was made, and by whom made, if any. Orders

made in vacation shall be filed with the Clerk and be entered of record.

Sec. 188. Certified copies taken from the record of all papers required to be recorded shall have the same effect as copies taken directly from the originals.

Sec. 189. The provisions of law regulating costs and security therefor, shall apply to costs in matters of probate, so far as the same are not controlled by the succeeding sections of this act.

Sec. 190. The costs incurred in the exhibition and establishment of claims shall be taxed as follows: First—If a claim which has been allowed be disapproved, the claimant shall pay the costs. Second—If a claim which has been rejected be established, the estate shall pay the costs.

Sec. 191. In all cases where a guardian or trustee shall neglect the performance of any duty required of him, and shall be notified to appear before the court on account thereof, he shall pay all costs of such proceedings out of his own estate.

Sec. 192. In cases where a party shall make any application or opposition, and on the trial thereof he shall be defeated, he shall be liable for all costs occasioned by such application or opposition.

Sec. 193. The costs of partition and of distribution must be paid by the respective parties in proportion to their interests.

Sec. 194. When any person shall be found to be of unsound mind, the costs of the proceedings shall be paid out of his estate, or if that be insufficient, by the county.

Sec. 195. If the person be discharged, the costs shall be paid by the person at whose instance the proceeding was had, unless such person be an officer, acting officially under the provisions of this act, in which case the costs shall be paid by the county.

Sec. 196. Special guardians and attorneys appointed to represent absentees, shall receive a reasonable compensation, which the court shall determine, and order to be paid out of the shares of the persons whom they represent.

Sec. 197. Any person who may consider himself aggrieved by any decision, order or judgment of the court, or by any order of the Judge thereof, may appeal to the District Court as a matter of right without bond.

Sec. 198. An appeal is taken by causing an entry of notice thereof to be made on the record during the term at which such decision, order or judgment is entered; or if the order be made in vacation, by causing the entry of such notice to be made before the close of the next term.

Sec. 199. When such notice has been given, a certified transcript of the proceeding shall be made out and transmitted to the District Court. Such transcript shall not contain anything which does not relate to the order, decision or judgment appealed from. When notice of appeal has been given by the same person from more than one decision, order or judgment entered of record in the same estate, at the same term, all of the appeals may be embraced in the same transcript.

Sec. 200. If there be not time to make out such transcript before the first day of the next term of the District Court after such appeal is taken, it shall be transmitted to said court within sixty days after such appeal be taken.

Sec. 201. The appeal shall not suspend the decision, order or judgment, except in the cases mentioned in the succeeding section, unless the appellant, within twenty days after the entry thereof, cause a bond to be filed in an amount fixed by the court at the time of entry of ap-

peal, signed by one or more sureties, payable to and approved by the Clerk, to the effect that the appellant shall perform the orders and judgment which the District Court may make therein, in case the decision be against him.

Sec. 202. An appeal suspends the decision, order or judgment, without bond: First—When taken by a claimant from the disapproval of his claim. Second—When taken by the guardian or trustee, except where the controversy is respecting the rights of guardianship or the settlement of an account.

Sec. 203. When the certified copy of the judgment of the District Court is received, it shall be entered of record as the decision, order or judgment of the County Court.

Sec. 204. Where a certified copy of the order or judgment of the District Court is received, dismissing an appeal or quashing a supersedeas, it shall be entered of record, and the decision, order of judgment shall stand as if no appeal or supersedeas had been taken or obtained.

Sec. 205. Any person interested may, by a bill of review filed in the court in which the proceedings were had, have any decision, order or judgment rendered under this act, revised and corrected, on showing error therein. But no process or action under such decision, order or judgment shall be stayed, except by writ of injunction.

Sec. 206. A suit by bill of review must be commenced within two years after the proceedings were had that are sought to be reviewed, saving to persons non compos mentis, infants and femme-coverts, two years after their respective disabilities are removed.

Sec. 207. That acts and parts of acts in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 208. There being no law in force in conformity with the Constitution relative to guardianships, therefore an imperative public emergency and necessity exists that this act be immediately passed and take effect from and after its passage, and it is so enacted.

Approved August 18, 1876.

Takes effect from its passage.

CHAPTER CXIII.—An Act to provide for the resumption by the State of the possession and control of the State Penitentiary, at Huntsville, and of all the property and convicts belonging thereto, and to provide for the settlement of all matters between the lessees and State, growing out of the termination of the lease of said penitentiary, and to provide for the management and control of said penitentiary and convicts after the termination of said lease, and to make the necessary appropriations therefor.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor be and he is authorized and required at such time and in such manner as he may deem necessary or expedient to take and resume, in behalf of the State, the possession, control and management of the penitentiary, at Huntsville, and all the property and convicts belonging thereto, whether within or without the walls of said penitentiary, and upon such resumption, the lease heretofore made to A. J. Ward, E. C. Dewy, and Nathan Patton, and all the authorities and powers conferred thereby shall cease and determine, and said lessees shall upon demand turn over, surrender and deliver to such person or persons as may be designated by the Governor, the said penitentiary, its property and convicts.

Sec. 2. As soon as practicable after resuming possession of said penitentiary, the Governor shall, in behalf of the State, appoint and employ such appraisers, accountants, arbitrators, and counsel to represent the interests of the State, as he may think necessary, and take any and all other steps which he may deem proper for the purpose of securing a fair, just and equitable settlement of all claims, demands, accounts and controversies of every character whatsoever between the State and said lessees, growing out of or arising under or incident to the leasing of said penitentiary to said lessees and the determination of said lease; provided, that in any settlement to be made the State shall not take any property, real or personal, or any machinery, materials or other thing belonging to the lessees, which under the lease the State is not required to take unless such property, machinery, material or other thing be necessary for or can be utilized in operating the penitentiary, or unless the taking of such property be necessary to liquidate indebtedness of said lessees to the State, in which case the same may be received at the appraised value; and in making the settlement, property, real or personal, may be exchanged, and the Governor may execute in the name of the State any deeds or other conveyances required for this purpose.

Sec. 3. If upon a settlement, as provided for in the preceding section, the State be found to be indebted to said lessees, and such settlement be certified by the appraisers and arbitrators, the Governor, if he approve such settlement, shall direct the Comptroller to draw his warrant on the Treasurer in favor of said lessees for the amount of such indebtedness; provided, that said lessees, before being entitled to receive such warrant, shall execute and file with the Comptroller a full release, discharge and acquittance in substance, form and manner as may be directed by the Governor.

Sec. 4. If no satisfactory settlement as contemplated by the preceding sections can be made, then either the State or said lessees, or both, may bring suit in the District Court of Travis County for the enforcement and adjustment of any right or claim or the recovery of any balances between the State and said lessees; and appeal, or writ of error, may be prosecuted from any final judgment or decree of said District Court, as in other cases; provided, that nothing contained in this section shall be construed to prevent the State from suing said lessees or either of them, or their or either of their sureties, on their bonds; or from adopting or pursuing any other or different legal measures for the enforcement of any claim or right in behalf of the State, of any character whatsoever; or for the recovery from said lessees of any property, sum, balances or penalties, to which the State may be entitled; and provided further, that in no suit or proceeding in any court of the State, shall the State be required to pay any costs or give any bond.

Sec. 5. To defray the expenses attending the determination of the lease and the settlement with the lessees, and to provide the means for paying the lessees any balance that may, in an adjustment, be found in their favor, or that may be established against the State by the judgment of a court, the sum of five thousand dollars, or so much thereof as may be necessary, be, and the same is hereby appropriated out of the State Treasury; and, upon the approval of said claims by the Governor, the Comptroller shall draw his warrant on the Treasurer for the amount thereof, and the Treasurer shall pay the same.

Sec. 6. Upon the resumption of the possession and control of said penitentiary, the Governor shall appoint three Commissioners, to hold

office for two years, each of whom shall receive an annual salary of two thousand dollars, to be paid quarterly out of the State Treasury, who, in conjunction with the Governor, shall take such measures and adopt such rules and regulations for the control and management of the penitentiary and the convicts belonging thereto as may be deemed best, not inconsistent with the laws prescribing the treatment and management of convicts; and such rules and regulations shall be binding upon all officers of the penitentiary, guards, employes, hirers of convict labor, and all others in any way connected with the penitentiary, or the convicts within or without the walls; and one of said Commissioners shall, at least twice in each month, visit the penitentiary and each place at which convicts may be employed; and said Commissioners shall meet and confer twice each month on matters pertaining to the penitentiary and its management, and shall, once in each month, make a full report to the Governor upon all such matters as he may require connected with the penitentiary and the management of the convicts, and discharge such other duties as may be required by the Governor, or by law; and said Commissioners may be removed at the discretion of the Governor.

Sec. 7. Upon the resumption of the State Penitentiary, under the provisions of this act, the Governor is hereby authorized and required as soon as possible to lease the same by public advertisement, for such time not to exceed fifteen years, and upon such terms and conditions as may be deemed best, special regard being had, as far as practicable, to the exaction of the penalty imposed by law on each convict, and to the protection, well being and humane treatment to which each convict is entitled at the hands of the State; and any lease made shall be subject to the approval or revocation of any Legislature of the State thereafter convening, and to any and all laws touching the penitentiary or convicts, thereafter passed, and any failure on the part of the lessee or lessees, to carry out, in good faith, any of the terms of such lease or to comply with any of the conditions and stipulations of any bond which may be given by them, shall operate as a forfeiture of all authority and powers under such lease, and the Governor may at once declare the same terminated, and again resume possession and control, as though such lease had not been made; and no lease shall be made by which the control of the prisoners, except as to a reasonable amount of labor, shall pass from the State or its officers to the lessees; and the State shall, in all cases, and under all circumstances, retain the absolute control of the persons of the convicts, put them to or withdraw them from any kind of labor; station and remove them at or from any point inside or outside of the prison; make or change at pleasure, all rules for the discipline and punishment of convicts; prescribe regulations for their food, clothing, nursing, instruction and guarding; and any lease made shall be subject to the reservation of these rights and powers on the part of the State, whether so stated in the lease or not; the object of these limitations being to prevent the State, under the guise of contract, from parting with the right to direct how, at any time and under all circumstances, convicts shall be lodged, fed, clothed, worked and treated; provided, that no convict shall be hired or leased to do any labor outside of prison walls, and detached from the prison when there is sufficient room for their accommodation within the walls of the penitentiary or penitentiaries of the State, and their labor can be utilized within said prison; provided, that if the Governor shall be unable to

again lease the penitentiary as required in this section, the same shall be managed and controlled as the law may direct.

Sec. 8. The right to hire or operate convicts outside the prison walls is hereby expressly given, but this right shall be exercised only under such rules, and with respect to such class or classes of convicts as the Governor and Commissioners may prescribe.

Sec. 9. For the purpose of providing the means with which to operate said penitentiary, feed, clothe, manage, guard and utilize the labor of the convicts, in case the possession and control of said penitentiary, its property and convicts shall, as hereinbefore provided, be resumed by the State, the sum of thirty thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated, out of the State Treasury, to be paid out of any moneys not otherwise appropriated on the warrants of the Comptroller, which warrants shall be issued only upon accounts approved by the Governor, or any two of said Commissioners, and the receipts and disbursements of all moneys shall be governed by such rules as the Governor and said Commissioners shall prescribe.

Sec. 10. Whereas, the management of the penitentiary and convicts is wholly inadequate to the public necessities and wants, and an imperative public necessity existing for a change, thus creating an emergency therefor, that this act take effect and be in force from and after its passage.

Approved August 19, 1876.

Takes effect ninety days after adjournment.

CHAPTER CXIV.—An Act to provide District and County Surveyors with offices in the various districts and counties of the State.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That the District and County Surveyors of this State are authorized to rent some suitable building or room in which to keep their offices, in case the said Surveyors cannot be provided with offices in the court-houses of their respective counties.

Sec. 2. The County Commissioners' Court shall make the necessary arrangement for paying the rent of an office rented by said Surveyors, upon satisfactory evidence showing that the rent was reasonable and the office necessary, and that there was no office provided for said Surveyors in the court-house of their county.

Sec. 3. The fact that the Surveyors of some of the counties being without offices, except as provided through their own means, creates an emergency which requires that this act take effect and be in force from and after its passage, and it is so enacted.

Passed August 18, 1876.

Takes effect from its passage.

CHAPTER CXV.—An Act to define the duties of persons subject to taxation by the laws of this State and fix the penalties for the violation of the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That it is hereby made the duty of every person subject to taxation by the laws of this State, to make out and render a list of his, her or their taxable property, both real and personal, under oath, to the Assessor of Taxes, or before some officer authorized to take the acknowledgements of any instruments of writing for record, and it is also made the duty

of each person rendering property for taxation to subscribe the oath of affirmation required to be subscribed to in section five of an act to define the duties, powers, qualifications and liabilities of Assessors of Taxes, and to regulate their compensation, passed by this session of this Legislature.

Sec. 2. That any person who shall refuse or neglect to make out and render a list of his, her, or their taxable property when called upon in person by the Assessor of Taxes, or his deputy, or any person who shall fail or refuse to qualify to the truth of his, her or their statement, as prescribed in section five of the act referred to in section one of this act; or who shall fail or refuse to subscribe to the oath or affirmation as required in section five of the act above referred to, shall be guilty of a misdemeanor, and on conviction for each offence, shall be fined in any sum not less than twenty nor more than one thousand dollars.

Approved August 19, 1876.

Takes effect ninety days after adjournment.

CHAPTER CXVI.—An Act to amend Section 1 of an act entitled: "An Act for the benefit of actual occupants of the Public Lands," approved May 26, 1873.

Section 1. Be it enacted by the Legislature of the State of Texas, That Section 1 of an act entitled: "An Act for the benefit of actual occupants of the public lands," shall hereafter read as follows:

"Section 1. That any person who has occupied or shall occupy any portion of the public domain as a homestead, under any previous or existing law, shall have the same surveyed and the field notes returned to the Land Office within twelve months after settling upon the same, or as provided in Section 2 of this act, and such person, or his assignee or assignees, shall be entitled to a patent therefor upon filing in the Land Office an affidavit to the effect that such person, or his assigns, have occupied and improved said lands for three years in good faith, and has complied with the requirements of this act and paid all fees which affidavit shall be corroborated by the affidavit of two disinterested and credible citizens of the county in which the land is situated, all of which affidavits shall be subscribed and sworn to before the Clerk of the District or County Court, who shall certify to the same and the credibility of said citizens under the seal of his office; provided, that when in any county the affidavit required by the first section of said act to be made before a District Clerk, has been since the 18th day of April, 1876, made before a Clerk of the County Court, such affidavit and certificate of said Clerk, shall be sufficient and as valid in every respect as if such affidavit had been made before the District Clerk.

Sec. 2. Whereas, since the 18th day of April, 1876, the affidavit required by the first section of the act of which this act is amendatory has in many instances been made before County Clerks, instead of District Clerks, as required by said act, which creates an imperative public necessity for the immediate passage of this act, that the acts of County Clerks in such cases may be at once validated, therefore, this act take effect and be in force from and after its passage.

Approved August 19, 1876.

Takes effect from its passage.

CHAPTER CXVII.—An Act to levy a tax on the privilege of keeping or harboring dogs, and to provide for the assessment and collection of the same.

Whereas, There are in many localities in this State, a very large number of dogs, and there are strong indications of a prevalence to hydrophobia, from which much danger will result to the lives and property of citizens; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the keeping of dogs shall be a privilege which shall be taxed as follows: Every owner or harborer of a dog, or dogs, shall pay one dollar (\$1.00) on each dog, to be collected as other taxes of the State and county, and paid into the County Treasury for the use and benefit of public free schools in the county; provided, that one dog to each family shall be exempt from taxation.

Sec. 2. That it shall be the duty of the Tax Assessors to enumerate and assess, as hereinbefore provided, every dog within his county, on the first day of January of each year, and the Tax Collector shall collect the same. The Assessor shall cause each person to state on oath the number and kind of dogs owned or harbored by him or her.

Sec. 3. That if any person shall keep a dog that has been assessed for taxes under this act, and shall fail to pay the tax on the same on or before the first day of January next after said assessment is made, he or she shall be guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction, shall be fined not less than five dollars (\$5.00) and costs for each dog so kept. And it is hereby made the duty of County Attorneys to prosecute, upon his own motion, all delinquent tax-payers under this act.

Sec. 4. That in payment of the dog tax, the scalps of the cougar, panther, bear, wolf and catamount shall be received at two dollars (\$2.00) for each scalp; also, the scalps of leopards, American lions and sloths, and the scalps of the wild cat and red fox at one dollar (\$1.00) each, and the grey fox at fifty cents each; and the scalps of raccoons shall be received at twenty-five cents for each scalp; provided, that the party presenting any of such scalps in payment of tax shall make affidavit before some officer authorized to administer oaths that the animal was captured and killed in the county.

Sec. 5. That whenever the Collector shall receive, in payment of any tax assessed under this act, any scalps, as provided in section four, he shall present the same to the County Treasurer, on or before the first day of January after the assessment was made. The County Treasurer shall credit the Collector with the amounts of said scalps on the basis of value as fixed for the same in section four of this act. And it shall be the duty of the Treasurer, in the presence of the Collector and at least one other commissioned officer of the county, to immediately destroy, or cause to be destroyed, all of such scalps so received by burning.

Sec. 6. That an imperative public necessity and emergency exist for the immediate passage of this act, and it is hereby declared that the same take effect from and after its passage.

Approved August 19, 1876.

Takes effect ninety days after adjournment.

CHAPTER CXVIII.—An Act to validate the acts of the Commissioners' Courts throughout the State of Texas had from the 18th day of April, 1876, to the 15th day of August, 1876.

Section 1. Be it enacted by the Legislature of the State of Texas, That the acts of the Commissioners' Courts had in the different counties of this State since the 18th day of April, 1876, to the 15th day of August, 1876, in the interests of their different counties are declared to be as valid and binding as if under the law defining duties and powers of Commissioners' Courts, passed by this Legislature on the 22d of July, 1876.

Sec. 2. That no inconvenience may result to the counties in which sessions of the Commissioners' Courts have already been held, a great public necessity and emergency exist that this act be of force and effect immediately upon and after its passage; it is therefore so enacted.

Approved August 19, 1876.

Takes effect from its passage.

CHAPTER CXIX.—An Act to provide for the election and qualification of County Treasurers and County Surveyors.

Section 1. Be it enacted by the Legislature of the State of Texas, That at each regular biennial election for State and county officers in this State, there shall be elected in each county by the qualified voters thereof, a County Treasurer and County Surveyor, who shall take the oath of office, give the bond, and perform all the duties required by law.

Sec. 2. As there is no law providing for the election of County Treasurers and County Surveyors in the counties of this State, an imperative public necessity exists that this act take effect and be in force from and after its passage.

Approved August 19, 1876.

Takes effect from its passage.

CHAPTER CXX.—An Act to establish and provide for the support and maintenance of an efficient system of Public Free Schools.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor, Comptroller, and Secretary of State, as the Board of Education, shall distribute the available school fund annually to the several counties of the State, on the basis of their scholastic population, prior to September first of each year, on which day each scholastic year shall begin.

Sec. 2. The Governor of the State shall be President of the Board of Education. A majority of said Board are authorized to perform all duties devolved by law on said Board.

Sec. 3. Said Board, if, in their judgment, the educational interests of the State require, may appoint some competent person as Secretary, who shall receive an annual salary of fifteen hundred dollars (\$1500), to be paid out of the available school fund. He shall take the oath of office prescribed by the Constitution, and perform such duties as may be required by the Board.

Sec. 4. Said Board shall keep a complete record of all its proceedings, which shall be signed by the President of the Board at each session thereof. They shall cause to be filed all papers, reports, and documents transmitted to them by school officers or others, and keep a complete

index thereof; they shall counsel and advise with county school officers and teachers, as to the best manner of conducting schools throughout the State, and shall give such instructions, not inconsistent with this act, to county school officers in the interest of common-school education as they may deem advisable. They shall, from time to time, address circular letters to county school officers, giving advice as to the best manner of conducting schools, constructing school-houses, furnishing the same, and procuring competent teachers. They shall cause to be printed, in pamphlet form, all school laws in force after this session of the Legislature, and a like publication after each session during which amendments may be made or new laws enacted, which shall be distributed to school officers and teachers throughout the State.

Sec. 5. They shall, one month prior to the meeting of each regular session of the Legislature, and ten days before the meeting of any special session having authority under executive proclamation to legislate on matter pertaining to public free schools, make a full report of the condition of public free schools throughout the State: the whole number of white and colored schools, which have been taught in each county in the scholastic year; the number of pupils, white and colored, in attendance receiving tuition free of charge; the number paying tuition; the number of white and colored children within scholastic age in the State; the number of scholastic age and less than eighteen years old, and how many of said number are unable to read; the number within scholastic age who have not attended school; the number within scholastic age unable to read; the amount of public free school fund; how its revenue for the previous year has been distributed and expended; the number of public free school-houses in each county, with a description of their kind and condition, together with such other information and suggestions as they may deem important for promoting education; which report shall be laid before the Legislature the first week of each session that may have power to legislate on school affairs. Whenever said reports are ordered to be published, two thousand copies shall be presented [printed], in pamphlet form, for furnishing the Legislature and such school officers and libraries in the State as the Board of Education may direct, and to Superintendents of each State and Territory.

Sec. 6. Said Board shall furnish to county school officers all blanks and forms necessary in making reports, or in carrying out such instructions as they may give them, not inconsistent with this act.

Sec. 7. Said Board shall require from school officers and teachers such reports necessary to school affairs and school funds as they may deem proper for collecting information for legislative consideration.

Sec. 8. On or before the first day of September of each year the Board of Education shall apportion the available school fund appropriated by the Legislature to the several counties in the State, according to scholastic population, upon the latest and most reliable data; and they shall issue certificates to the County Treasurer of each county for the amount of the available school fund to which said county is entitled, subject to the restrictions herein contained. They shall also furnish an abstract of said apportionment to the Comptroller of Public Accounts, and to each County Judge in this State a statement of the amount apportioned to his county.

Sec. 9. The Board of Education shall issue to school officers such instructions in the interest of public free schools as they may deem expedient, when not inconsistent with the provisions of this act.

Sec. 10. The Board of Education shall be allowed all necessary expenses for books, postage, and printing and stationery required for their office.

Sec. 11. Whenever, in this act, the words "school officers," or "officer," are used, the same shall be construed to include any officer of this State upon whom is devolved, by law, a duty pertaining to public free schools, as well as such officers as are created by this act.

School Fund.

Sec. 12. One-fourth of the occupation and ad valorem taxes assessed since March 30, 1870, exclusive of the costs of collection; one-fourth of all the ad valorem and occupation taxes that may hereafter be collected, exclusive of the costs of collection; all poll taxes due since March 30, 1870, uncollected and which may be collected, exclusive of the costs of collection; all poll taxes hereafter to be collected, exclusive of the costs of collection; the interest arising on any bonds and funds, and all the interest derivable from the sale of lands hereinbefore set apart for the permanent school fund, belonging to the permanent school fund, and which now are or may hereafter come into the State Treasury, shall constitute the available school fund, and shall be appropriated for the establishment, support and maintenance of public free schools.

Sec. 13. All conveyances, devises and bequests of property, made by any one for the benefit of public free schools, for any county, city or town, shall, when not otherwise directed by grantor or devisor, vest said property in the County Judge of the county, or the Mayor of said city or town, and their successors in office, as the trustee for those to be benefited thereby, and the same shall, when not otherwise directed, be administered by said Judge or Mayor, subject to the approval of the Board of Education.

Sec. 14. The available public free school fund shall be distributed to school communities in the several counties, to be organized on the application of the parents and guardians of those to be benefited thereby to suit their convenience, without reference to geographical lines within the counties.

Sec. 15. The available public free school fund shall be appropriated in each county for the education alike of white and colored children, and each race shall receive its just pro rata, as far as practicable, in each county, according to the number of children of each race within scholastic age.

Sec. 16. No school in which sectarian religion is taught shall be entitled to any portion of the available public school fund, nor shall any form of religion be taught in any public free school in this State.

State Comptroller's Duties in Regard to School Fund.

Sec. 17. The Comptroller of the State shall keep a separate account of the amount of available school funds arising from every source; he shall, on or before the meeting of each regular session of the Legislature, report the amount of the available school fund that he may estimate will be received for the next two years, and which may be subject to appropriation for the establishment and support of public free schools, and the several sources from which they accrue; he shall draw his warrant on the State Treasurer in favor of any County Treasurer, or in favor of any County Collector of Taxes, in the manner and under the circumstances provided by this act for the amount of such fund due his county, on presentation of a certificate from the Board of Educa-

tion issued to the County Treasurer, showing the amount to which such county is entitled, duly endorsed by the County Treasurer.

Duties of State Treasurer Pertaining to School Fund.

Sec. 18. It shall be the duty of the Treasurer of the State to receive and hold as a special deposit all school moneys, and he shall keep a correct account of the several sources from which they accrue; he shall report to the Governor thirty days before the meeting of any session of the Legislature, which may have power to legislate regarding public school funds, and at such other times as the Board of Education may require, the condition of the permanent and available school fund; the amount of each in the Treasury, and the manner and amount of disbursement since his last report. He shall pay out the available school fund whenever applied for, only on a warrant of the State Comptroller issued on certificates of the Board of Education, on each of which shall be endorsed the name of the party to whom it was payable. He shall, under no circumstances, use any portion of the permanent or available school fund in payment of any warrant drawn against any other fund whatever.

Scholastic Age.

Sec. 19. All children between the ages of eight and fourteen years shall be entitled to the benefit of the available free school fund, under this act, without regard to race or color.

Scholastic Census.

Sec. 20. It shall be the duty of the Assessor of Taxes of the several counties in the State to take a careful census of the children in their counties, who will be of the age of eight and not over the age of fourteen years on the first day of September succeeding the taking of such census, which census shall contain the name, sex, age and race. A separate census shall be made out and returned by the Assessor, embracing the population within scholastic age within the limits of each incorporate city and town in his county, which shall contain the same data required in making the general census. All children known to the Assessor to contain an admixture of African blood shall be returned as colored. Said list shall, after being sworn to by the Assessor, be returned to the Clerk of the County Court, together with two abstracts of the same, showing the number of children, white and colored, male and female, and such other data as may be required, on the forms furnished by the Board of Education, on or before the first day of July in each year; and shall not receive any compensation unless the same is properly made out and returned on said day. One of the said abstracts shall be forwarded to the Board of Education, and the County Clerk shall retain the other and record it in a separate book, after it shall be approved by the County Judge. The copy of said abstract shall be forwarded by the County Judge to the Board of Education immediately after the completion of the assessment of the county, as required by law, and prior to August first of each year. No allowance shall be made by the Comptroller for any assessment of taxes in any county until the County Assessor shall exhibit and file with him a certificate from the Clerk of the County Court of his county, that said census, reports and abstracts have been correctly taken, as required by law, approved by the County Judge, and filed by said Assessor. And said Assessor shall receive for the enumeration of such

scholastic population: for the first one thousand, four cents per capita, and two and one (half) cents for all numbers over one thousand for each and every child so enrolled on said lists, to be paid out of the common free school fund by the County Treasurer, on the certificate of the County Judge showing how much he may be entitled to receive. The County Clerk, for services required by this act, shall be allowed such compensation as may be allowed by the Board of Education, not to exceed one-eighth of the amount allowed for like labor under the other laws regulating the fees of office.

Sec. 21. Assessors, in taking a scholastic census, shall in all cases make careful inquiry as to the age of the child, availing themselves of all accessible information, and may, in their discretion, require the parent or guardian to answer under oath upon the question of age.

County Treasurer.

Sec. 22. The Treasurers of the several counties in this State shall be Treasurers of the available public free school fund for their respective counties; and they shall be allowed only one per cent. commissions for disbursing the same, but shall be entitled to no commissions for receiving or collecting the same; provided, that should the Collector of Taxes of the county make default in paying over to the Treasurer on the certificate of the Board of Education, in a reasonable time, such Treasurer shall be allowed in settlement of his account such exchange for collecting the pro rata distributive portion of school fund due his county as may be allowed and certified to by the Board of Education.

Sec. 23. On receipt of notice from the Board of Education of the amount of State fund apportioned to the county, the County Treasurer shall execute bond for double the amount thus apportioned, with two or more good securities, to be approved by the County Judge, conditioned that he will safely keep and faithfully disburse the school fund according to law, and pay such warrants as may be drawn on said fund by competent authority. No certificate entitling said Treasurer to receive said pro rata of the school fund shall be issued by the Board of Education until a certificate has been received by said Board of Education from the County Judge, that the bond herein required of the Treasurer has been executed according to law, and that it has been filed and approved by the County Judge; provided, that such bond, when once executed by the County Treasurer, shall entitle him to receive the pro rata of the school fund for his county annually, until otherwise ordered by the Board of Education.

Sec. 24. The County Treasurer shall keep a record of all school funds received by him, showing the year for which the same are to be disbursed, and shall credit school communities, after numbering and otherwise designating such communities, with such amounts as may be apportioned to them by the County Judge. All balances of the general fund not appropriated for the current year shall be carried over by the Treasurer as part of the general fund for the county for the succeeding year, and balances unexpended or unappropriated for a school community shall be carried over for the benefit of such school community if it be reorganized for the following year; and if it be not reorganized, shall be added to the general fund for distribution for the general benefit of the county at large.

Sec. 25. That where there is any money or other property in the County Treasury to the credit of any school district, as constituted un-

der the law repealed by this act, upon application to the County Judge by the trustees of any school community, incorporated city or town composing a part of said district, it shall be the duty of said County Judge to notify the trustees of the school communities composing the balance of said district to appear before him on a day named in said notice; and upon said date he shall enter up his order, making an equitable partition and distribution of said money and other property to the various communities, incorporated cities and towns, composing said original district; a copy of which order shall be delivered to the County Treasurer for his guidance, and the fund so distributed shall constitute a part of the available school fund for said communities; provided, that this section shall not be construed to authorize the sale of any real estate already appropriated or purchased for public school purposes, situated in an incorporated city or town, constituting a separate school district, until the consent of the municipal authorities has been obtained; and provided further, that out of said money in the County Treasury to the credit of any school district, the amount or amounts due teachers to 31st of August, 1876, under the law repealed by this act, shall be first paid before said money or property shall be partitioned and distributed to the various communities.

Sec. 26. It shall be the duty of the Sheriffs or Tax Collectors of the several counties to pay over to the County Treasurers thereof all money collected by virtue of any school tax heretofore levied, and all persons who, while holding the office of Sheriff, have collected such money and have not accounted for the same, shall be liable on their official bonds therefor. And all moneys in the hands of the Treasurers of the School Boards, of the Tax Collectors and the County Treasurer, that have been, or may hereafter be, collected or paid into the County Treasury, are hereby placed under the control of the County Commissioners' Court, and shall be paid out on warrants drawn by their order for such purposes as are now, or may hereafter be, provided by law. And the County or District Attorney shall institute suit against any and all persons who fail or refuse to comply with the provisions of this section.

Sec. 27. Upon receipt of a certificate from the Board of Education, countersigned by the Comptroller of Public Accounts, stating the amount of the available school fund to which any county is entitled, the Treasurer of such county shall present the same to the Collector of Taxes of his county, who shall pay the amount therein specified, from time to time, as taxes payable in the State Treasury, which payment shall be receipted for on the certificate, and also a receipt shall be given to the Collector; and when the whole is collected, the County Treasurer shall deliver the said certificate to the Collector of Taxes, in whose hands it shall be a voucher for so much money in his settlement with the Comptroller of the State.

Board of School Examiners.

Sec. 28. It shall be the duty of the County Judge to appoint a Board of School Examiners for his county, for each scholastic year, consisting of three well educated citizens of the county, who shall examine, before their employment, all teachers of public free schools, for which service they shall receive from each applicant examined by them three dollars. Every teacher, before being employed to teach any of the public free schools of this State, must obtain from the County Judge, on the report of the Board of School Examiners, a certificate of qualification; and no

teacher can make a legal contract to teach a public free school without first obtaining such certificate.

School Communities.

Sec. 29. Parents and guardians, or next friend, of any minor, residents of any county of this State, on or after the first Monday of January, and up to the beginning of the next scholastic year, in order to avail themselves of the benefits of the available school fund for their county, for the scholastic year, beginning the next succeeding September, may organize themselves into school communities, embracing such population as may agree to avail themselves of the benefits of the available public free school fund, on the following terms, viz: They shall make out a list to be signed in person by such parents and guardians as desire to avail themselves of the available school fund; which list shall include the names and ages of children to be instructed, who may be within the scholastic age, on the first day of the next September, which names of children shall be made in alphabetical order, which list shall also include all minors within scholastic age in said community, who have no legal guardians; said list, together with an application to the County Judge, stating that they desire, in good faith, to organize a school at such place as they may designate, shall be filed with the County Judge; said application shall also show the capacity of the school houses, and school conveniences, if any. The Assessor, when taking the scholastic census, shall also ascertain to what community each child belongs; and if it appears that any child is not included in any community list, the County Judge shall assign such child to the most convenient and appropriate community, and set apart to said community such a child's pro rata of the fund.

Sec. 30. The application to establish a school, in case there be a school house reported, shall ask that the pro rata of the available school fund, properly due to the number of children reported, be credited to said school community.

Sec. 31. On receipt of such a petition from a school community, the County Judge shall compare the list of pupils presented in such application with the census made out by the County Assessor, and if the names of the children within scholastic age appear on said list, or if proof be made that they should have been placed on said list, and the County Judge be satisfied that the petition is in good faith, he shall enter an order, in a book kept for that purpose, sanctioning the establishing of said school community, and shall designate it by its name and number.

Sec. 32. School communities may be organized, when population will permit, for separate male and female schools, or for mixed schools, male and female, as the necessities and condition of each community may require. Three trustees shall be appointed by the County Judge for each community, who shall discharge such duties as are herein prescribed, or which may be prescribed by the Board of Education, and who shall see that the school for which they are trustees shall be conducted in accordance with the provisions and limitations of this act.

Sec. 33. After the receipt from the Board of Education of a certificate showing the amount of State school fund due the county for the next succeeding scholastic year, the County Judge shall apportion the same to the scholastic population of his county, according to the last census taken by the Assessor, as the same may have been corrected by

inserting or omitting names, and direct the County Treasurer to credit the school communities, by number and name, with the amount of said school fund to which their scholastic population may be entitled in the aggregate.

Sec. 34. The trustees of any school community, already provided with a school-house, desiring to avail themselves of the benefits of a public free school, shall employ a teacher holding a certificate of competency, issued by the Board of Examiners herein provided for, to teach school for such community at such time during the scholastic year as they may designate, having due regard for the convenience of the community: provided, however, that every school shall be taught, as nearly as practicable without intermission for the period contracted for with the teacher.

Sec. 35. The trustees of each school community shall contract with the teacher to continue the school for the longest time they may be able to agree, for the benefit of the pupils within the scholastic age, for the pro rata of the school fund to which such community may be entitled, permitting said teacher to instruct, in said school, pupils over or under the scholastic age, and to teach branches not herein prescribed as the public school course of study, at such rates as he and the patrons may agree upon; provided, that no school with one teacher shall exceed forty pupils, except by the consent of the trustees.

Sec. 36. The contract between the trustees and the teacher shall be in writing, and shall specify the number of months the school is to be taught, and the wages per month. After being signed by the trustees and teacher, it shall be filed with the Clerk of the County Court, who shall safely keep the same; provided, teachers shall not receive more than one dollar and fifty cents per month for each pupil within the scholastic age in any school community.

Sec. 37. The Board of Education shall provide teachers with a register, in which the names, age, studies, and daily attendance of pupils shall be recorded; and with the blank forms to enable them to make proper reports through the County Judge to the Board of Education about such matters as the Board of Education may instruct.

Sec. 38. The amount contracted by trustees to be paid a teacher shall be paid on a check drawn by a majority of the trustees on the County Treasurer and approved by the County Judge. The check shall, in all instances, be accompanied by the affidavit of the teacher that he is entitled to the amount specified in the check as compensation under his contract as a teacher.

Sec. 39. A child within scholastic age entered at one public school shall afterwards receive no benefit of the school fund by attending another public school during the scholastic year.

Sec. 40. A teacher's certificate shall be canceled on account of such misconduct or immorality as the Board of Trustees shall report to the County Judge disqualifying him, in their opinion, for the instruction of children.

Sec. 41. County Judges shall be paid for the services required of them under this act such amount as may be allowed by the Board of Education, not to exceed one hundred dollars for any scholastic year, to be paid out of the available school fund.

Sec. 42. When the nearest school community for children within scholastic age residing near a county line is situated in an adjoining county, such school community may receive such children, for whose

tuition the teacher shall be paid by the County Treasurer of the county in which said children reside, on presentation of the account of the teacher, certified to by the Board of Trustees of the community school, and approved by the County Judge of the county in which the children reside. Such payment shall be made according to the pro rata of the school fund for distribution in the county where such children reside; and in all such cases, notice that said children are attending school out of the county of their residence shall be given, in writing, to the County Judge of the county in which they reside during the first four weeks of the session. Such notice, after being received by him, shall be filed with the Treasurer of the county in which said children reside.

Teachers.

Sec. 43. Any one desiring to teach a public free school shall, unless known to the County Judge, present a certificate from the Justice of the Peace of the precinct in which he or she desires to teach, or in which he or she may reside; or, in case the applicant has acquired no residence in this State, then some other certificate satisfactory to the County Judge, that he or she is a person of good moral character and of correct, exemplary habits. The County Judge shall thereupon, unless satisfied that some good cause exists for refusing such certificate, convene the County School Board of Examiners, and direct an examination of the applicant on the following branches, viz: Orthography, reading, writing, English grammar, composition, geography and arithmetic.

Sec. 44. On report by the Board that the applicant is competent to teach, the County Judge shall cause the same to be filed by the Clerk, and shall issue a certificate of competency to the teacher, authorizing him to contract with trustees of any school community to teach a school as contemplated by this act; which certificate shall be valid in the county where issued for the current scholastic year, and may be renewed by the County Judge for any subsequent year without examination, if the Judge be satisfied of the propriety of such renewal.

Sec. 45. The time for teaching public free schools shall be at such seasons of the year as may be fixed by the Trustees of each community, who, in determining the same, shall be guided by the convenience or interests of the parents and guardians, so as to secure the largest attendance of scholars with the least injury to home interests.

Sec. 46. Public free schools shall be closed on every Saturday, on Christmas and New Year's Day, on national or on State Thanksgiving Day, on the twenty-first day of April (the anniversary of the battle of San Jacinto), and on every national holiday. The session shall continue seven hours each day, and may continue longer by agreement with teacher and trustees.

Sec. 47. It shall be the duty of teachers to keep an accurate record of daily attendance of each pupil, and all other statistics required by the Board of Education necessary to make a complete report at the end of the term, which shall be filed with duplicate abstracts thereof with the Clerk of the County Court, one of which shall be forwarded by the County Judge to the Board of Education.

Sec. 48. Teachers, on the organization of their schools, shall determine the books of instruction to be used, subject to the approval of their community trustees, having due regard to the convenience of the parents with regard to books already purchased.

School-houses.

Sec. 49. When a school community, organized on the application of parents and guardians as herein provided, has no school-house, and a majority of its members are willing to assist, with their private means or labor, in building one, and shall donate a school-site for neighborhood public free school purposes, and deliver a deed therefor to the County Judge, executed to him and his successors in office in trust for public free school purposes, and shall pay for the registry of the same, they shall state the amount they propose to invest of their private means, and the value of the labor and material they propose to furnish free of charge for the erection of said house, and ask that the pro rata of the school fund to which the children in such community would be entitled may be set aside to assist in building said school-house. And the trustees of school communities, upon the order of the County Court, or the municipal authorities of any city or town constituting a separate school district, are hereby authorized and empowered, when deemed advisable, to sell any property belonging to said school community to the highest bidder, for cash or on time, as they may see proper; and apply the proceeds to the purchase of necessary grounds, or to the building, repairing or renting of school-houses.

Sec. 50. Upon receiving the application described in the foregoing section, the County Judge may enter an order granting said application; and notify the County Treasurer to credit such school community with the fund that may be apportioned thereto for building a school-house; provided, that the amount of money, labor, and material subscribed, together with the pro rata of the available school funds for one year to which said community would be entitled, would be sufficient to erect a comfortable school-house, with a capacity adequate to accommodate the children that may belong to said school community; provided, also, the community shall furnish one-half the amount necessary to build the house.

Sec. 51. Every school-house erected under the provisions of this act shall be erected under a contract for building, made with the school trustees of the school community who shall have control and direction of the work; and all accounts for labor and material furnished for said school-house shall be approved by them, and paid out of the fund apportioned to the school community for building purposes, on warrant of County Judge; but no such account shall be paid until the house is completed, unless the County Judge be fully satisfied, from securities deposited with the County Clerk for the use of the public school fund of the county, that the money, work, and material subscribed will be forthcoming when required in the progress of the work; provided, that nothing contained in this act shall be so construed as to prevent any school community from using the funds indicated in this section for being used in the purchase as well as the building of a school-house when the provisions of this section are complied with in reference to the title to the same.

Sec. 52. When the trustees of any school community not having a public school-house shall determine it to be to the interests of the community they represent to rent or lease a house for school purposes instead of building one, they are authorized to rent or lease the same for the scholastic year; the rent so contracted to be paid by the County Treasurer out of the school fund to which the children in such com-

munity would be entitled, upon the warrant of said trustees, approved by the County Judge; provided, the amount of rent so contracted shall not exceed six dollars per month for a suitable house, to be adjudged of by said trustees; which house so rented, for the time, shall be, as shall also each and every other community school-house, under the control of the trustees of the school community for school purposes, and for such other uses for the convenience of the neighborhood as may not interfere with school interests, but subject to the discretion of the school trustees. All school-houses erected under the provisions of this act shall be subject to the control of the trustees of the school community for whose benefit the same was erected; and, when deemed advisable, may be disposed of as provided for in section 49 of this act.

Sec. 53. A school-house, constructed in part by voluntary subscription by colored parents and guardians and for a colored school community, shall not be used, without the consent of the colored community assisting in its erection, for the education of white children; and a like rule shall protect the use of school-houses erected in part by voluntary subscription of white parents or guardians for the benefit of white children.

Sec. 54. In no case shall any school, consisting partly of white and partly of colored children, receive any aid from the available school fund, but the two races shall always be taught in separate public free schools.

Sec. 55. Any incorporated city or town in this State may have exclusive control of the public schools within its limits; provided, they determine so to do by a majority vote of the property tax-payers of said city or town; and the Council or Board of Aldermen thereof are invested with exclusive power to maintain, regulate, control and govern all the public free schools now established or hereafter to be established within the limits of said city or town; and they are furthermore authorized to pass such ordinances, rules and regulations not inconsistent with the Constitution and laws of this State, as may be necessary to establish and maintain free schools, purchase building sites, construct school-houses, and generally to promote free public education, within the limits of their respective cities or towns.

Sec. 56. When any such city or town shall, in good faith, elect to assume control and management of the public free schools within its limits, and shall have notified the State Board of Education, and the County Judge of the county in which it is situated, it shall receive from the Collector of Taxes in the county, on the certificate of the Board of Education, such a proportion of the public revenue in his hands as its scholastic population may entitle it to, which certificate shall be a voucher in the hands of the Collector of Taxes for so much money in his settlement with the State Comptroller. Such an additional amount as a city or town having control of public free schools may desire to raise by taxation for school purposes, shall be levied upon the taxable property in the limits of said town or city, in accordance with the usual assessment of taxes for municipal purposes; but such additional tax shall not exceed one per cent. on the city assessment of taxable property within its limits, and shall not be levied unless at an election, held for that purpose, two-thirds of those paying a tax on property in said city or incorporated town, to be determined by the last assessment rolls of said city or town, shall vote therefor. Schools thus organized and provided for by incorporated cities or towns shall be subject to the

general laws of the State, so far as the same are applicable; but each city or town having control of schools within its limits shall constitute a separate school district, and may, by ordinance, provide for the organization of schools, and the appropriation of its school fund in such manner as may be best suited to a dense school population.

Sec. 57. The title to all houses, lands and other property, now owned or which may hereafter be purchased or acquired by a city or town for the benefit of public free schools, and all houses, lands or other property, purchased for the benefit of public free schools in the county, and lying within the limits of any town or city, which may have assumed control and management of the public free schools within its limits and conformity with law, shall be vested in the City or Town Council or Board of Aldermen, in trust for the sole use of public free schools established under this act; but no houses or lands so held in trust, or that may hereafter be acquired for the benefit of public education, shall be sold or otherwise diverted from the use herein indicated, without the consent of the State Board of Education.

Sec. 58. The apportionment of the available public free school fund to be made by the Board of Education for the scholastic year, beginning September first, 1876, shall be made on the basis of the apportionment for the year ending August 31, 1875.

Sec. 59. For counties organized since September 1, 1875, the Board of Education, for the first scholastic year, shall apportion the available school fund on the most reliable data, as to population, accessible.

Sec. 60. The annual apportionment for the support of public free schools for the scholastic year subsequent to August 31, 1876, and prior to the scholastic year which will begin after the next regular session of the Legislature, shall be based on estimates, to be furnished by the State Comptroller, of available school funds that may be received for said year.

Sec. 61. For the scholastic year begin(n)ing September 1, 1876, school communities may organize and apply for the benefit of the available public free school fund at any time prior to January 1, 1877.

Sec. 62. County school officers, and school officers for cities and towns, under school laws in force prior to the passage of this act, shall continue to discharge the duties of their respective offices under existing laws in the disbursement of school funds already appropriated, until August 31, 1876, and shall make settlement with the County Judge in their counties, who shall cause to be turned over any balance, unexpended of school funds, to the County Treasurer, subject to the provisions of this act.

Sec. 63. Immediately on the passage of this act, five thousand copies of the same shall be published by the Board of Education, and at once, such number as the Board may direct, shall be sent to each County Judge in the State.

Sec. 64. On account of the emergency resulting from the necessity of immediately promulgating this act, that the people may be advised of their rights under the same, and in time to prepare for the next scholastic year, this act shall take effect and be in force from and after its passage.

Approved August 19, 1876.

Takes effect from passage.

CHAPTER CXXI.—An Act to authorize the Commissioners' Court to procure buildings for the use of the County Courts in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioners' Court in any of the counties in this State may provide buildings, rooms or apartments at the county seats, other than the court-house, for holding the sessions of the County Courts.

Sec. 2. There being a number of court-houses in this State too small in which to hold the terms of the District and County Courts, at the same time, a public necessity and emergency exist for the passage of this law; therefore, the same shall take effect from and after its passage.

Approved August 19, 1876.

Takes effect from its passage.

CHAPTER CXXII.—An Act to amend the act of 8th of November, 1866, amending an act entitled: "An Act to establish a Penal Code," approved August 26, 1856.

Section 1. Be it enacted by the Legislature of the State of Texas, That the act of the 8th of November, 1866, amending an act entitled: "An Act to establish a penal code for the State of Texas," approved August 26, 1856, be and is hereby amended so as to read as follows:

"Sec. 2. The owner or keeper of any horse, mare, gelding, mule, jack, jennet, colt or other animal diseased with glanders or farcy, be and is hereby required to keep the same in a safe and secure place, either in a lot or stable upon his or her own premises, at sufficient distance, and separate and away from any and all other stock, either his own or of any other person, liable to catch and communicate said disease, and shall keep the same in such close and separate confinement during the existence of said disease, and until the same is permanently cured; and any person who shall wilfully or knowingly fail or refuse to place said diseased animal in such confinement after the fact is made known to him that said animal is so diseased, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than twenty-five dollars nor more than two hundred dollars, or be confined in the county jail for not less than ten days nor more than three months."

Sec. 3. Whereas, diseases are prevalent among horses in certain portions of this State, an imperative public necessity exists that this act take effect and be in force from and after its passage.

Approved August 19, 1876.

Takes effect from its passage.

CHAPTER CXXIII.—An Act to regulate fees of committing magistrates and Sheriffs, in committing courts.

Section 1. Be it enacted by the Legislature of the State of Texas, That in all cases where Justices of the Peace shall sit as committing magistrates, they shall be allowed such fees as are fixed by law, and twenty cents for each one hundred words for writing down the voluntary statement of the defendant, and for taking down the testimony in such cases; to be paid by the defendant, upon conviction for an offense less than a felony, as in cases of appeal from Justices' Courts. If convicted of a felony, such Justice of the Peace shall be entitled to and receive only ten cents for each one hundred words in such evidence and volun-

tary statement, not to exceed in any one case, for all his fees, more than five dollars, to be paid by the State upon the warrant of the Comptroller of Public Accounts, to be issued upon the bill of costs, duly sworn to by such Justice of the Peace, and attested by the Clerk of the court before which the case was finally tried, under his official hand and the seal of said court.

Sec. 2. That the Sheriff or Constable who may arrest the defendant, and attend upon the court during the investigation of any such cases shall be allowed the same fees allowed them for similar services in cases tried in the Justice's Court, to be paid by the defendant or the State, as the case may be, in like manner as prescribed in the preceding section, upon the conviction of the defendant.

Sec. 3. As there are many cases now being tried by Justices of the Peace, as examining Courts, and as there are some doubts existing as to whether said officers will be entitled to receive any fees for such services, in the event that no bill of this kind be passed by this Legislature, and as the Legislature is nearing its adjournment, therefore an imperative public necessity for the immediate passage of this act, and an emergency that the same take effect from its passage, both exist; therefore this act shall take effect and be in force from and after its passage.

Approved August 19, 1876.

Takes effect ninety days after adjournment.

CHAPTER CXXIV.—An Act making appropriations for deficiencies for the fiscal year, beginning September 1, 1875, and ending August 31, 1876, and previous years.

Section 1. Be it enacted by the Legislature of the State of Texas, That the following sums, or so much thereof as may be necessary, be and the same are hereby appropriated out of any moneys in the Treasury not otherwise appropriated, for deficiencies incurred in the support of the State government for the fiscal year beginning September 1, 1875, and ending August 31, 1876, and previous years.

Judiciary.

For fees in felony cases, due Sheriffs, Clerks and District and County Attorneys in District and Justices' Courts for 1876 and previous years.....	\$60,000 00
Fees in felony cases, due Justices of the Peace, and other peace officers, for 1876, and previous years.....	15,000 00
Salary of N. W. Battle, late Judge Criminal Court for the cities of Marlin, Waco and Calvert.....	478 00
For salary of Jas. Q. Chenoweth, late Judge Criminal Court for the cities of Clarksville and Bonham.....	1,652 95
J. L. Camp, for services as Criminal Judge in the cities of Jefferson, Marshall, etc., from 13th March, 1875, to August 31, 1875.....	1,633 00
For publishing Supreme Court reports.....	659 00

General Land Office.

For purchase of Spanish and Mexican law books, for use of translating department....	161 50
For books, stationery and furniture.....	400 00
For vault for preservation of Spanish archives.....	300 00
For transcribing indexes.....	1,250 00

Supreme Court.	
For contingent expenses.....	\$150 00
For fees due S. Ashe, late Sheriff of Harris county.....	50 50
Attorney-General's Office.	
For fees due Attorney-General in felony cases.....	1,000 00
Adjutant-General's Office.	
For pay to D. D. Cannedy, as State policeman, on approved account	118 00
For pay for work on approved account for Henry Hinck..	7 25
Comptroller's Office.	
For repairs on building, balance due Loomis and Christian..	278 81
For E. A. Stephens, Deputy Sheriff of Bexar county, expenses incurred in bringing taxes to the Treasury.....	121 00
Treasury Department.	
For stationery.....	50 00
Quarantine.	
For pay of health officers under quarantine laws, for services on the Gulf coast of Texas for 1876 and previous years	9,000 00
Public Buildings and Grounds.	
For amount due Fred Voigt.....	1,535 05
To F. Voigt, to be used only for watering plants and shrubbery in the Capitol Grounds.....	100 00
For gas for Governor's mansion.....	110 00
Executive Office.	
For telegraphing.....	150 00
Pensions.	
For amount due Dillard Cooper, under acts approved January 13, 1862, and November 29, 1871.....	850 00
Miscellaneous.	
For balance due Charles Hupperts on approved account...	20 00
For balance due J. Johnson on approved account.....	52 00
For amount due on public debt certificates provided by law	60,000 00
For rent of buildings for storing arms and ammunition..	312 50
For William Raatz, for work done by order of Governor Davis, and approved by Auditorial Board.....	73 60
For Loomis and Christian, for material furnished, on approved account.....	19 08
For Loomis and Christian, for material furnished, on approved account.....	51 99
For John W. Harris, for services in the International case against the State.....	2,500 00
For Shelley and Walton, attorney's fees.....	2,500 00
For account of R. C. Harrel, now owned by C. W. T. Welden, it being for pursuing criminal to Tennessee, capturing and returning him to jail at Bonham, Fannin county, Texas.....	404 25

For amount due C. Johnson, for masonry on Capitol Grounds, to be paid on account approved by the Governor, Comptroller of Public Accounts, and Superintendent of Public Grounds.....	\$2,196 75
For payment of workmen on Capitol Grounds, other than C. Johnson, to be paid out on account approved by the Governor, Comptroller of Public Accounts and Superintendent of Public Grounds.....	1,585 16
Deaf and Dumb Asylum.....	2,000 00

Sec. 2. Whereas, an emergency and an imperative public necessity exists that the officers of the State of Texas, and the other creditors of the State, should be paid their just dues without delay; therefore this act shall take effect from and after its passage.

Approved August 19, 1876.

Takes effect from August 19, 1876.

CHAPTER CXXV.—An Act to provide for the speedy assessment and collection of taxes upon land and real estate in cases when such property has been subject, by law, to taxation, but the assessment thereof has been omitted.

Section 1. Be it enacted by the Legislature of the State of Texas, That in all cases where lands or real estate in this State have heretofore been subject to taxation for any year or years since the year one thousand eight hundred and seventy, but the rendition of and assessment thereof for any such year or years has been omitted, all such taxes, the rendition and assessment of which has been so omitted, shall be assessed upon such land and real estate, and collected in the manner hereinafter provided; provided, that all the lands in this State, and on which the taxes are unpaid, shall be assessed by the assessor of the county in which the land is situated, with all the taxes accrued thereon, in ratio to the taxation in the several counties of this State for the several years the taxes are unpaid, according to the average value of such lands in the several counties for the respective years said taxes are unpaid; and the same shall be a lien on the land until said taxes are paid, as required by this act.

Sec. 2. It shall be the duty of the Comptroller of this State, as soon as it will be possible for him to do so after the passage of this act, to make a separate list of all lands and real estate in each county for each year since the year one thousand eight hundred and seventy, which was not rendered and upon which taxes were not assessed for such year, but which was subject to taxation, by law, for such year; in preparing said lists he shall give the name of the original grantee, abstract number, number of acres and the rate of State and county taxes for such year, and shall forward the same to the Board of Equalization of the respective counties, with the verification that the said list is a true and correct statement of all the unrendered land and real estate in ——— county for the year ———, as shown by the records of his office.

Sec. 3. Upon receipt of such list or lists by the Board of Equalization of such county, it shall be their duty to value each and every tract of land or parcel of real estate so mentioned and described in the said lists at their true and full value, as near as can be ascertained, for the year it was omitted to have been rendered.

Sec. 4. When the Board of Equalization shall have completed the

valuation, they shall cause to be made out three separate rolls in the manner as may be prescribed by the Comptroller; they shall place one in the hands of the Collector of Taxes, forward one to the Comptroller of the State, and file one in the office of the County Clerk for the inspection of the public.

Sec. 5. Upon receipt of the rolls by the Collector of Taxes, he shall advertise in some weekly newspaper published in his county, and if no paper is published in his county by posting printed circulars in not less eight public places in his county, for four consecutive weeks, that the rolls for the collection of taxes on unrendered land and real estate has been placed in his hands, and that unless the taxes are paid within thirty days after the last publication of said notice, he will proceed to collect the same as provided by law for the collection of delinquent taxes.

Sec. 6. The Collector of Taxes shall, at the expiration of the thirty days mentioned in Section 5 of this act, proceed to the collection of all unpaid taxes or unrendered land and real estate in his county in the same manner as provided by law for the collection of delinquent taxes, and shall charge and collect such fees and penalties the same as are allowed him for the collection of said delinquent taxes; provided, that the owner of such unrendered land and real estate, or his agent, shall, upon the payment of all taxes due upon the same since the first day of January A. D. 1873, prior to the commencement of proceedings for the collection of the same by the Collector of Taxes under this section, receive a full and complete acquittance from all demands from the State for such delinquent taxes.

Sec. 7. That owing to the near approach of the close of this session of the Legislature, and that a law may be enacted to make taxation bear equally upon all property in this State, an imperative public necessity exists for the suspension of the rules, in order to immediately place this bill upon its final passage.

Approved August 19, 1876.

Takes effect ninety days after adjournment.

CHAPTER CXXVI.—An Act supplemental to, and amendatory of an act, entitled: "An Act to make an appropriation for the fiscal year beginning September 1, 1875, and ending August 31, 1876, and previous years."

Whereas, An imperative public necessity and emergency exists, that an act, entitled, "An Act to make an appropriation for the fiscal year, beginning September 1, 1875, and ending August 31, 1876, and previous years," passed at this session of the Legislature should take effect from and after its passage; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That said above recited act do take effect and be in force from and after the passage of this amendatory act.

Approved August 19, 1876.

Takes effect from its passage.

CHAPTER CXXVII.—An Act to provide for the issuance of patents for land in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby authorized and required to issue patents upon locations made upon the

islands of said State, in pursuance of the fifth section of the act entitled, "An Act to regulate the disposal of the public lands of the State of Texas," approved August 12, 1870; provided however, that such locations shall have been made before the amendment of said section by the act entitled, "An Act to amend the first, third and fifth sections of an act entitled, 'An Act to regulate the disposal of the public lands of the State of Texas,' approved August 12, 1870;" approved May 16, 1871; and, provided further, that the land so located, shall, at some time prior to such location, have been offered for sale by said State.

Approved August 19, 1876.

Takes effect ninety days after adjournment.

CHAPTER CXXVIII.—An Act to authorize and require the State Board of Education to invest the proceeds of the sale of University Lands now in the State Treasury, in six per cent. State Bonds.

Section 1. Be it enacted by the Legislature of the State of Texas, That the State Board of Education is hereby authorized and required to invest the proceeds of the sale of University Lands now in the Treasury of the State in six per cent. State bonds.

Sec. 2. That whenever the interest on the bonds now belonging to the University Fund, together with the interest on the bonds contemplated in this act, shall amount to the sum of ten thousand dollars, it shall be the duty of the School Board to collect the same and invest it in the bonds of the State.

Sec. 3. Whereas, the importance of having the said University Fund at interest, creates an emergency; therefore, this act go into effect from its passage.

Approved August 19, 1876.

Takes effect from its passage.

CHAPTER CXXIX.—An Act to prohibit the Judges of County Courts of this State from practising as attorneys or counselors-at-law in the County Courts and the Courts of Justices of the Peace of this State, and to affix a penalty for the violation of its provisions.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall not be lawful for the Judge of any County Court of this State to practice as an attorney or counselor-at-law in any of the County Courts or Courts of the Justices of the Peace of this State, and any County Judge who may violate the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof, in any court of competent jurisdiction shall be punished by fine not less than one hundred nor more than five hundred dollars and in addition thereto, shall be removed from office.

Sec. 2. Whereas, no law now exists prohibiting County Judges practising as attorneys-at-law in the County and magistrate's Courts of this State, whereby much confusion results, thus creating an emergency, and an imperative public necessity that this act go into effect at once; therefore, this act shall take effect and be in force from and after its passage.

Approved August 19, 1876.

Takes effect from its passage.

CHAPTER CXXX.—An Act to provide for the filling of vacancies in the offices of County Surveyor, County Treasurer and Hide Inspector in the counties of this State.

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever there shall be a vacancy in the offices of County Treasurer, County Surveyor and County Hide Inspector in any of the counties of this State, it shall be the duty of the County Commissioners' Court of the county in which said vacancy occurs is situated, to fill by appointment such vacancy or vacancies, such appointment to continue in force until the next general election; provided, that no person appointed to fill any of said vacancies shall exercise the duties of the office to which he may have been appointed until he shall have given the bond and taken the oath of office required of persons elected to such office.

Sec. 2. Inasmuch as there is no provision made by law for filling vacancies herein provided for, and inasmuch as there are vacancies now existing which should be filled, thereby creating an emergency; therefore, that this act take effect and be in force from and after its passage.

Approved August 19, 1876.

Takes effect from its passage.

CHAPTER CXXXI.—An Act to amend Article seven hundred and twenty-one, of the code of criminal procedure.

Section 1. Be it enacted by the Legislature of the State of Texas, That Article seven hundred and twenty-one of the code of criminal procedure be and the same is hereby amended so as hereafter to read as follows:

"Article 721. When the defendant appeals in any case of felony, he shall be committed to jail until the decision of the Appellate Court can be made; and if the jail of the county is unsafe, or there be no jail, the Judge of the District Court may, either in term time or vacation, order the prisoner to be committed to the jail of the nearest county in his district, which is safe; and such appeal may be prosecuted immediately to the term of the Appellate Court pending at the time the same is taken, or to the first term thereafter, without regard to the law governing appeals in other cases; the transcript of records in such appeals may be filed in the Appellate Court for trial, before the adjournment of the term of the District Court at which the case is determined, should the defendant so desire; provided, that in case the defendant shall make his escape from prison during the pending of the appeal, then the jurisdiction of the Appellate Court shall no longer attach in the case; and upon the fact of such escape being made to appear, the court shall, on motion of the Attorney General, or counsel for the State, dismiss the appeal."

Sec. 2. Whereas, many felony cases now pending in the Court of Appeals, where the appellants have escaped from custody, and such cases are only encumbering the docket, an imperative public necessity exists this act be in full force and effect from and after its passage.

Approved August 21, 1876.

Takes effect from its passage.

CHAPTER CXXXII.—An Act to provide for furnishing certain supplies herein named to the Lunatic, Deaf and Dumb and Blind Asylums.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Comptroller shall, on the first day of August of each year, and quarterly thereafter, advertise for sealed proposals for furnishing to the Superintendents of the Lunatic, Deaf and Dumb and Blind Asylums, certain supplies, as hereinafter named, for two weeks, in a daily newspaper published in the city of Austin and Galveston, prior to the day of opening said bids. Said advertisements shall state the articles for which bids shall be received, and bids shall be made separately as hereinafter named.

Sec. 2. Each bid shall be secured with such bond as the Comptroller may require, with two or more good securities, payable to the State, conditioned that the party to whom any contract may be awarded shall faithfully carry out the terms of his contract, and shall be liable to the State for any default of the same.

Sec. 3. On the day named for opening said bids, the Comptroller shall open the same in the presence of the Board of Trustees, and shall award to the lowest responsible bidder, the contract or contracts for which he may have bid.

Sec. 4. All bids shall be made for the term of three months, beginning September first of each year and quarterly thereafter.

Sec. 5. All supplies shall be furnished in accordance with contract, beginning September first and quarterly thereafter; and it shall be the duty of the Superintendents of the several asylums herein named, on the first day of August, November, February and May, of each year, to make out detailed estimates of such supplies as they will require for the ensuing three months, beginning on the first day of the following month, and submit the same in duplicate to the Board of Trustees of their respective asylums. It is hereby made the duty of said Board to immediately examine said estimate and to approve the same, or any part thereof, as they may think necessary.

Sec. 6. Bids shall be made for the articles hereinafter named, separately, to-wit: Bids for fresh beef; bids for bacon and lard; bids for flour; bids for rice, peas, beans, grits and hominy; bids for soap, coarse and fine salt, vinegar, starch, soda, pepper and baking powders; bids for coffee and tea; bids for white and brown sugar; bids for molasses; bids for mackerel, prunes and dried apples, kroun, brooms, candles and oil, canned goods, alcoholic stimulants and tobacco; bids for dry goods, hats, hose, shoes and undershirts; bids for wood; provided, that the party to whom may be awarded the contract for wood, may deliver the amount required for a year, under such regulations as the Board of Trustees may direct.

Sec. 7. The Superintendents of the several asylums shall give an itemized receipt for all the articles delivered by the contractors of the same, and when approved by the Board of Trustees, the Comptroller shall draw his warrant upon the Treasurer for the amount, which amount shall be charged to the appropriate appropriations for the asylums furnished.

Sec. 8. The Superintendents of the several asylums shall furnish to the Comptroller a copy of the estimates that they may require for the ensuing three months, which shall be kept by him for the inspection of the public. Said estimates shall be itemized, stating the quantity

and quality of the articles needed, and as far as practicable the brands. The estimates for dry goods shall state the brands; for shoes, the quality and sizes needed; and for under-shirts, the quality.

Sec. 9. The Comptroller, in advertising for bids, shall specify the quality of the articles required and, as near as can be, shall specify the brands. If the Board of Trustees of said asylums, or any of them, shall find that a sufficient quantity of any articles, not enumerated in Section 6, shall be needed to justify its purchase by contract, it shall be their duty to report the fact to the Comptroller, who shall add said item or items to any bid, as required in Section 6, as he may deem best.

Sec. 10. It being important that the supplies for said asylums should be furnished as cheaply as possible to the State, an imperative public necessity exists; therefore this act take effect from and after its passage.

Approved August 19, 1876.

Takes effect from its passage.

CHAPTER CXXXIII.—An Act to create the Department of Insurance, Statistics and History.

Section 1. Be it enacted by the Legislature of the State of Texas. That there is hereby created a Department of Insurance, Statistics, and History, which shall be charged with the execution of all laws now in force, or which may hereafter be enacted in relation to insurance, and insurance companies doing business in this State; also, with the execution of all laws relating to statistics and history, and do and perform such other duties as may be prescribed by law.

Sec. 2. The chief officer of said department shall be designated as the Commissioner of Insurance, Statistics, and History. He shall be a citizen of the State and experienced in matters of insurance, and be appointed by the Governor, by and with the advice and consent of the Senate, and shall hold his office two years from the date of his appointment, and until his successor shall have been appointed and qualified.

Sec. 3. Within fifteen days after notice of his appointment, and before entering upon the duties of his office, he shall take the oath of office prescribed by the Constitution of this State, and shall give a bond to the State of Texas in the sum of five thousand dollars, with two or more good and sufficient sureties, to be approved by the Governor, and conditioned for the faithful discharge of the duties of his office, which oath and bond shall be filed in the office of the Secretary of State.

Sec. 4. Said Commissioner may appoint a competent Clerk, who shall be subject to removal at the pleasure of the Commissioner, and who shall possess all the power and perform all the duties attached by law to the office of Commissioner, during the necessary or unavoidable absence of the Commissioner from the seat of government. The Commissioner shall be responsible for the acts of his Clerk, who shall before entering upon the duties of his position, take the oath required of the Commissioner in the third section of this act; he may also be required by the Commissioner to enter into bond with security, payable to said Commissioner, for the faithful performance of the duties of his said position.

Sec. 5. Said Commissioner shall receive an an(n)ual salary of two thousand dollars, and his Clerk an an(n)ual salary of twelve hundred dollars, which salaries shall be paid as other salaries are paid.

Sec. 6. Said Commissioner shall have a seal of office, the design of which shall consist of a star with five points, with the letters composing the word, "Texas," arranged between the respective points thereof, said seal not to be less than one and one-half and not more than two inches in diameter, and on the margin thereof, around the points of the star, shall be inscribed the words, "Department of Insurance, Statistics, and History," or an intelligible abbreviation thereof. A description of said seal, with a certificate of approval by the Governor, shall be filed in the office of the Secretary of State, with an impression thereof, which seal shall thereupon be and become the seal of office of the Commissioner of the Department of Insurance, Statistics, and History.

Sec. 7. No person who is a director, officer or agent of, or directly or indirectly interested in any insurance company, except as insured, shall be Commissioner or Clerk; and no officer or agent of any insurance company, doing business in this State, shall be deputed to examine the affairs of a company under this act.

Sec. 8. It is the duty of the Commissioner: First—To see that all laws of this State respecting insurance companies are faithfully executed. Second—To file in his office every charter or declaration of organization of a company, with the certificate of the Attorney-General, and on application of the corporators, to furnish them with a certified copy thereof. Third—He shall, as soon as practicable in each year, calculate or cause to be calculated in his office, by an officer or employee of his department, the net value, on the thirty-first of December of the previous year, of all the policies in force on that day, in each life insurance company doing business in this State, organized by authority of this State, and of every life insurance company doing business in this State, that shall fail to furnish him, as hereinafter provided, a certificate of the Insurance Commissioner of the State, by whose authority the company was organized, or by the State in which it may elect to have its policies valued, and its deposits made; in case the company is chartered by the government of the United States, giving the net value of all policies in force in the company on the thirty-first day of December of the preceding year. Fourth—Calculations of the net value of each policy shall be based upon the American experience table of mortality, and four and one-half per cent. interest per annum. And the net value of a policy at any time shall be taken to be the net single premium which will at that time effect the insurance, less the value at that time of the future net premiums called for by the table of mortality and rate of interest designated above. Fifth—In case it is found that any life insurance company doing business in this State has not on hand the net value of all its policies in force, after all other debts of the company, and claims against it, exclusive of capital stock, have been provided for, it shall be the duty of the Insurance Commissioner to publish the fact that the then existing condition of the affairs of the company is below the standard of legal safety established by this State, and he shall require the company at once to cease doing new business, and he shall immediately institute proceedings, as required in this act, to determine what further shall be done in the case. Sixth—It is hereby made the duty of the Commissioner of Insurance, after having determined as above the amount of the net value of all the policies in force, to see that the company has that amount in safe, legal securities, of the description and character hereafter provided in this act, after all its debts and claims against it, exclusive of capital stock, have been provided for. Seventh—He shall

accept the valuation made by the Insurance Commissioner of the State under whose authority a life insurance company was organized, when such valuations have been properly made on sound and recognized principles, and legal basis as above; provided, the company shall furnish to the Insurance Commissioner of this State a certificate of the Insurance Commissioner of such State, setting forth the value calculated on the data designated above, of all the policies in force in the company on the previous thirty-first day of December, and stating that, after all other debts of the company, and claims against it at that time, were provided for, the company had, in safe securities of the character specified in this act, an amount equal to the net value of all its policies in force, and that said company is entitled to do business in its own State. Eighth—Every life insurance company doing business in this State during the year for which the statement is made, that fails promptly to furnish the certificate aforesaid, shall be required to make full detailed lists of policies and securities to the Insurance Commissioner of this State, and shall be liable for all charges and expenses consequent upon not having furnished said certificate. Ninth—For every company doing fire insurance business in this State, he shall calculate the re-insurance reserve for unexpired fire risks, by taking fifty per cent. of the premiums received on all unexpired risks that have less than one year to run, and a pro rata of all premiums received on risks that have more than one year to run; provided, that when the re-insurance reserve, calculated as above, is less than forty per cent. of all the premiums received during the year, the re-insurance reserve in this case shall be the whole of the premiums received on all of its unexpired risks. Tenth—In marine and inland insurance he shall charge all the premiums received on unexpired risks as a re-insurance reserve. Eleventh—Having charged against a company the re-insurance reserve, as above determined, for fire, inland and marine insurance, and adding thereto all other debts and claims against the company, he shall, in case he find the capital stock of the company impaired to the extent of twenty per cent., give notice to the company to make good its whole capital stock within sixty days; and if this is not done, he shall require the company to cease to do business within this State, and shall thereupon, in case the company is organized under authority of the State, immediately institute legal proceedings, as required in this act, to determine what further shall be done in the case. Any company having received the aforesaid notice of the Commissioner to make good its whole capital stock within sixty days, shall, forthwith, call upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of said company; and, in case any stockholder of such company shall neglect or refuse to pay the amount so called for, after notice personally given or by advertisement in such time and manner as the said Commissioner shall approve, it shall be lawful for said company to require the return of the original certificate of stock held by such stockholder, and in lieu thereof to issue new certificates for such number of shares as the said stockholders may be entitled to in the proportion that the ascertained value of the funds of said company may be found to bear to the original capital of said company; the value of such shares, for which new certificates shall be issued, to be ascertained under the direction of said Commissioner and the company paying for the fractional parts of shares; and it shall be lawful for the Directors of such company to create new stock and dispose of the same,

and to issue new certificates therefor, to any amount sufficient to make up the original capital of the company. Whenever the capital stock of any joint stock, fire, fire and marine, or marine insurance company of the State becomes impaired, the Commissioner may, in his discretion, permit the said company to reduce its capital stock and the par value of its shares in proportion to the extent of impairment; provided, that in fixing such reduced capital, no sum exceeding twenty-five thousand dollars shall be deducted from the assets and property on hand, which shall be retained as surplus assets; and, provided, that no part of such assets and property shall be distributed to the stockholders; and, provided further, that the capital stock shall not be reduced to an amount less than that required by law for the organization of a new company; to examine, or cause to be examined every detail of the business of any company, transacting business of insurance within this State, whenever in his judgment such examination is required by the interest of the policy-holders of such company. Twelfth—It shall be the duty of the Commissioner of Insurance, after he has notified a life insurance company organized under authority of this State, to cease doing new business until the net value of its policies in force is equal to that called for by the standard of safety established by the State, at once to cause a rigid examination in regard to the affairs of such company; in case it shall appear that there is no fraud or gross incompetency or recklessness shown to exist in the management, he may, upon publishing the facts in the case, permit such company to continue in charge of its business for one year; provided, there is in his opinion, reason to believe that the company may eventually be able to re-establish the legal net value of its policies in force. At the end of the year named above, he may renew the permission in case on examination he is satisfied that the company is likely to retrieve its affairs. Thirteenth—In case the Commissioner does not permit the company to continue in the control of its old business, it is hereby made his duty to institute the necessary proceedings for the protection of its policy-holders in accordance with the laws of this State. Fourteenth—To publish the result of his examination of the affairs of any company whenever he deems it for the interest of the public to do so, in one or more papers of this State. Fifteenth—To suspend the entire business of any company of this State, and the business within this State of any other company during its non-compliance with any provisions of this or any other act relative to insurance, or whenever its assets appear to him insufficient to justify its continuance in business, by suspending or revoking the certificate granted by him, and to give notice thereof to the Insurance Commissioner or other similar officer of every State, and publish the same in such paper as he may think proper. Sixteenth—To institute or cause to be instituted the necessary proceedings under the laws of this State, to close the affairs of any insurance company of this State which shall appear to him upon examination to be insolvent or fraudulently conducted. Seventeenth—To report in detail to the Attorney-General, any violation of law relative to insurance companies, their officers or agents, or the business of insurance. Eighteenth—To furnish to the companies required by law to report to him, the necessary blank forms for the statements required. Nineteenth—To preserve in a permanent form a full record of his proceedings, and a concise statement of the condition of each company or agency visited or examined. Twentieth—At the request of any person, and on payment of fee, to give certified copies of any record or papers

in his office, when he deems it not prejudicial to public interest so to do, and to give such other certificates as the law provides for. Twenty-first—To report annually to the Governor, on or before the thirty-first day of December, the name and compensation of his clerks, the receipts and expenses of his department for the year, his official acts, the condition of companies doing business in this State, and such other information as will exhibit the affairs of said department. Twenty-second—To send a copy of his annual report to the Insurance Commissioner or any similar officer of every other State, and to each company doing business in this State. Twenty-third—On request, to communicate with the Insurance Commissioner of any other State in which the substantial provisions of this act shall be enacted, any facts which by law it is his duty to ascertain, respecting companies of this State doing business within such other State. Twenty-fourth—It shall be his duty to see that no company is permitted to insure lives in this State whose charter authorizes it to do a fire, marine or inland business.

Sec. 9. The Commissioner, for the purposes of examinations authorized by law, has power, either in person or by one or more examiners by him commissioned in writing: First—To require free access to all books and papers within this State of any insurance company or the agents thereof, doing business within this State. Second—To summon and examine any person within this State, under oath, which he or any examiner may administer, relative to the affairs and condition of any company. Third—For probable cause to visit, at its principal office, wherever it may be, any insurance company not of a State in which the substantial provisions of the laws of this State shall be enacted, and doing business in this State, for the purpose of investigating its affairs and condition, and to revoke its certificate in the State if it does not permit an examination. Fourth—To revoke or modify any certificate of authority, when any conditions prescribed by law for granting it no longer exist. Fifth—The commissioner has also power to institute suits and prosecutions, either by the Attorney-General or such other attorney as the Commissioner may designate, for any violation of this act; and the Commissioner shall be made a party to any proceedings for the closing up the affairs of any company when the same shall not be in the name of the State.

Sec. 10. Whenever, without justifiable cause, any person being within this State refuses to appear and testify before the commissioner, when so required, or obstructs him in the discharge of his duty, he shall be punished according to law.

Sec. 11. Every instrument executed by the Commissioner of this State, or of any other State in which the substantial provisions of this act and the laws of this State shall be enacted, pursuant to authority confer(r)ed by this act, and authenticated by his seal of office, shall be received as evidence in this State, and copies of papers in his office certified by him and so authenticated, shall be received as evidence in this State, with the same effect as the original. Every such instrument so executed and authenticated by the Commissioner of this State shall be recorded in the same manner, and the same and its record shall have the like effect as if acknowledged or proved according to law. The impression of the seal may be directly on paper, with or without tenacious substance.

Sec. 12. There shall be paid by every company to whom this act applies, and doing business in this State, the following fees, to-wit:

Upon filing the declaration or certified copy of charter, twenty-five dollars; upon filing the annual statement, or certificate in lieu thereof, twenty dollars; for certificate of authority and certified copy thereof, one dollar; for every copy of any paper filed in his department, the sum of twenty cents per folio; and for affixing the official seal to such copy and certifying the same, one dollar; for valuing policies of life insurance companies, ten dollars per million of insurance, or any fraction thereof; for official examinations of companies under this act, the actual expenses incurred and ten dollars a day, not to exceed two hundred and fifty dollars; for countersigning and registering policies and annuity bonds, the reasonable expenses of custody, registration and issue. All fees received by the Commissioner under this act shall be paid over at the end of each month to the Treasurer of the State, and placed to the credit of general revenue.

Sec. 13. No transfer by the Commissioner of securities of any kind, in any way held by him in his official capacity, is valid unless countersigned by the Treasurer of the State. It is the duty of the State Treasurer: First—To countersign any such transfer presented to him by the Commissioner. Second—To keep a record of all transfers, stating the name of the transferee, unless transfer(r)ed in blank, and a description of the security. Third—Upon countersigning, to advise by mail the company concerned, the particulars of the transaction. Fourth—In his annual report to the Legislature, to state the amount of transfers countersigned by him.

Sec. 14. For the purpose of verifying the correctness of records, the Commissioner is entitled to free access to the Treasurer's record, required by Section 13, and the Treasurer is entitled to free access to the books and other documents of the Insurance Department relating to securities held by the Commissioner.

Sec. 15. That in event any number of insurance companies should associate together for the purpose of issuing or vending policies or joint policies of insurance, such association shall not be permitted to do business in this State until the taxes and fees due from each of said companies shall have been paid, and other conditions complied with; and any company failing or refusing to pay such taxes and fees, and to fully comply with the requirements of law, shall be refused permission by the Commissioner to do business in this State.

Sec. 16. It shall also be the duty of the Commissioner of Insurance, Statistics and History to obtain from every available source all reliable information and statistics relating to the population, wealth and general resources of the State; and particularly in regard to agriculture, stock raising, manufactures, mining, and other industries; also relating to commerce, exports and imports; also relating to internal improvements of all kinds, public and private, and such other subjects as may be of general interest or benefit to the State; and to enable the Commissioner to obtain such information and statistics, he is authorized to call on any and all State and county officers for such data, statistics and information as they may be able from their official position to afford; and it is hereby made their duty to fill up such blank forms as the said Commissioner may furnish to them, as far as it is possible for them to do so, and to return the same to the Department of Insurance, Statistics and History, within a reasonable time.

Sec. 17. The Commissioner shall embody all such reliable information and statistics as he may be able to obtain in accordance with the

preceding section, in tabulated or other convenient form, and report the same to the Governor annually, who shall cause the same to be printed and distributed in such numbers as he and the said Commissioner may determine.

Sec. 18. It shall also be the duty of the Commissioner to keep in constant communication with the Department of Agriculture of the United States, and to ask and solicit from the chief officer thereof a due proportion of the seeds and plants annually distributed from said department, and when received, said Commissioner shall distribute the same among the most experienced, skillful and scientific farmers in different portions of the State, who will promptly and carefully report to said Commissioner the results of their practical experience with said seeds and plants; and whenever the chief officer of the Department of Agriculture shall so request the Commissioner shall transmit to said department the results of such agricultural experiments, and such other information concerning agriculture in this State as may be accessible.

Sec. 19. It shall also be the duty of the Commissioner of Insurance, Statistics and History, to correspond with persons well informed in the early history of Texas, and to solicit and invite by printed circular, or otherwise, any reliable information, in the form of narrative or otherwise, respecting the incidents of the early history and settlement of the different portions of the State of Texas, for the future use of the historian; and the Commissioner shall revise and digest such information in proper form as near as practicable in chronological order, and shall record said revised and digested information in a properly bound book with indexes, and he shall carefully number and file the original documents in his office. He shall also keep a book in which he shall enter the names of persons furnishing information of incidents of early history with a condensed statement of the contents of each narrative or communication, and said Commissioner shall demand and receive from the Secretary of State, the Comptroller of Public Accounts, the Commissioner of the General Land Office, and from such other departments or officers as may have them in charge, all books, maps, papers, documents, memoranda and data, not connected with or necessary to the current duties of said departments or officers, as relate to the history of Texas as a Province, Colony, Republic and State, and carefully to classify, catalogue, number and preserve the same. The Commissioner shall also receive and preserve all historical relics, mementoes, antiquities and works of art connected with and relating to the history of Texas, which may be presented to the State, or otherwise come into his possession.

Sec. 20. It shall also be the duty of the said Commissioner to correspond with statistical, historical and agricultural societies beyond the State, and the Departments of other States, with the view of exchanging documents and data relating to the various interests sought to be fostered and advanced by the provisions of this act. He shall also endeavor to procure from Mexico the original archives which have been removed from Texas, and relate to the history and settlement thereof; and in case he cannot procure the originals, he shall endeavor to secure authenticated copies thereof; also any and all papers in Mexico, or elsewhere, relating to the early history of Texas.

Sec. 21. In addition to his other duties the said Commissioner shall have charge and control of the State Library, and of all the books,

manuscripts and other articles therein contained. He shall preserve and cause to be bound the current files of not less than six nor more than ten leading newspapers in the State, for the future use of the historian. He shall make such regulations as he may deem proper, subject to the advice and approval of the Governor, concerning the management and use of the public library and the books therein contained, take special care that none are lost or damaged.

Sec. 22. It shall not be lawful for the Commissioner to permit any manuscripts, papers, documents, relics, works of art or other property under his charge, except bound volumes of books, to be taken from his custody, nor from the public buildings which are assigned for their display or preservation.

Sec. 23. The Commissioner shall procure and keep in the State library a complete set of the general laws of the United States, and of every State in the American Union; and from time to time make such purchases of books and other articles as may be directed by law.

Sec. 24. All papers and records now on file in the office of the Comptroller of Public Accounts, pertaining to insurance, and connected with the current duties of the Commissioner of Insurance, Statistics, and History, shall be transfer(r)ed and delivered to that officer as early as practicable after he shall have qualified under this act.

Sec. 25. In addition to the reports named in this act, it shall be the duty of the Commissioner to make such other reports of the business of his office, and the information therein collected and preserved, as the Governor may require; and all the reports made shall be by the Governor laid before the Legislature at its next session after they shall have been made and printed.

Sec. 26. The Commissioner of Insurance, Statistics, and History, shall be subject to removal for neglect of duty, drunkenness, breach of trust, incompetency or malfeasance in office, either by the address of two-thirds of each House of the Legislature, or by impeachment, in the same manner as is provided by the Constitution and laws for the removal of other officers.

Sec. 27. The Governor may fill any vacancy occurring in the office of Commissioner of Insurance, Statistics, and History, and report the name of the person so appointed to the Senate, if in session, or at the next succeeding session of the Legislature. Should the Senate fail to confirm the appointment made by the Governor, within ten days after being advised thereof, then the said office shall be deemed vacant, and a new appointment shall be made until the office is filled.

Sec. 28. In view of the injunction of the Constitution and the great importance to the whole State of the establishment of the Department of Insurance, Statistics, and History, and of the great public necessity of its being immediately put into practical operation, it is a case of emergency, and is hereby enacted that this act shall take effect from and after its passage.

Approved August 21, 1876.

Takes effect from its passage.

CHAPTER CXXXIV.—An Act authorizing the Court of Appeals to appoint a Bailiff.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Court of Appeals or the Judges thereof shall be authorized to ap-

point a bailiff to attend before their court during its sessions and to execute its orders; he shall receive such compensation as may be allowed by said court, not to exceed four dollars per day, which compensation is to be paid out of the State Treasury.

Sec. 2. That there being no law in force to enable said court to appoint a bailiff to execute their orders, an imperative public necessity and emergency exists for the passage of this bill, and it is hereby declared that it shall take effect and be in force from and after its passage.

Approved August 21, 1876.

Takes effect from its passage.

CHAPTER CXXXV.—An Act to define and punish barratry.

Section 1. Be it enacted by the Legislature of the State of Texas, That the penal code of the State of Texas be and the same is hereby amended by inserting therein the following Articles:

“Article —. If any person shall wilfully instigate, maintain, excite, prosecute or encourage the bringing of any suit or suits at law, or equity, in any court in this State, in which the party has no interest, with the intent to distress or harass the defendant therein, or shall wilfully bring or prosecute any false suit or suits at law or equity, of his own, with the intent to distress or harass the defendant therein, he shall be deemed guilty of barratry, and shall be fined in any sum not exceeding five hundred dollars, and in addition thereto may be imprisoned in the county jail not exceeding one year.”

Approved August 21, 1876.

Takes effect ninety days after adjournment.

CHAPTER CXXXVI.—An Act to amend an act entitled: “An Act for the protection of the wool growing interests of the State,” approved May 2, 1874.

Section 1. Be it enacted by the Legislature of the State of Texas, That the first section of said act shall be so amended as to read as follows, to-wit:

“Be it enacted by the Legislature of the State of Texas, That if any person shall drive or graze upon any public road of this State or upon any land not owned or rented by himself, any sheep affected with the disease commonly known as the ‘scab,’ whereby any other flock of sheep should become diseased with ‘scab,’ by said driving or grazing, shall be deemed guilty of a misdemeanor, and, on conviction thereof, he shall be fined in any sum not to exceed one hundred dollars for each offense.

Sec. 2. That Sections 2, 3, 4, 5 and 6, of said act, be, and are hereby repealed.

Approved August 21, 1876.

Takes effect ninety days after adjournment.

CHAPTER CXXXVII.—An Act regulating interest.

Section 1. Be it enacted by the Legislature of the State of Texas, That on all written contracts ascertaining the sum due when no specific premium or rate of interest is expressed, interest shall be taken, recovered and allowed at the rate of eight per centum per annum, from and after the same is due and payable; and all open accounts, when no specific rate of interest is agreed upon, interest shall be taken, recorded and al-

lowed at the rate of eight per centum per annum, from the first day of January of each year after the same are made.

Sec. 2. The parties to any written contract may agree to, and stipulate for, any premium or rate of interest, not exceeding twelve per centum per annum on the amount or value of the contract, and the same may be taken, recovered and allowed.

Sec. 3. All contracts or instruments of writing, whatsoever, which may in any wise, directly or indirectly, violate the foregoing provisions of this act by stipulating for allowing or receiving a greater premium or rate of interest than twelve per centum per annum for the loan, payment or delivery of any money, goods, wares, merchandise, bonds, notes of hand, or any commodity, shall be void and of no effect for the whole rate of interest so charged, stipulated or agreed to be paid and received, but the principal sum of money or the value of the goods, wares, merchandise, bonds, notes of hand or commodity may be received and recovered; provided, however, that no evidence of usurious interest shall be received on the trial of such causes, unless the same shall be specially pleaded and verified by the affidavit of the party wishing to avail himself of the provisions of this act.

Sec. 4. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 5. That the fact that the session is drawing near a close, and there being no law defining usury, in force, creates an emergency and necessity that this act be passed immediately and it is hereby declared that this act take effect from and after its passage.

Approved August 21, 1876.

Takes effect from its passage.

CHAPTER CXXXVIII.—An Act to provide for the employment and hiring of county convicts, and prescribing the duties and fees of officers charged therewith.

Section 1. Be it enacted by the Legislature of the State of Texas, That any person or persons who may be convicted of any misdemeanor or petty offense in any of the courts of this State, and who shall be committed to jail in default of the payment of the fines and costs adjudged against him or them, shall be required to discharge such fines and costs by manual labor, in any manual labor work-house, or on any farm attached thereto, or on any road, bridge or other public work in the county where the conviction and committal were had.

Sec. 2. If any person so convicted and committed be an artisan or mechanic, and be put to labor in any manual labor work-house, or on any bridge or other public improvement, such artisan or mechanic shall be allowed a reasonable compensation for such labor; but such compensation shall not be paid to such artisan or mechanic.

Sec. 3. The preceding sections of this act shall not be so construed as to prohibit the employment of county convicts herein mentioned on other than public works, but it shall be lawful to hire out such person or persons to any individual, company or corporation.

Sec. 4. Whenever the services of any county convict shall be desired, and contracted for under the provisions of this act, the person, company or corporation so desiring and contracting for such services shall execute bond, payable to the County Judge of the county, with sufficient sureties or surety, to be approved by said County Judge, for

the prompt and faithful payment of the money that shall become due and payable for the services rendered or labor done by such convict or convicts, and that he or they will treat such convict or convicts humanely while in his or their employment; provided, that if any convict hired out under the provisions of this act shall escape from his employer, without any fault of such employer, before such convict shall discharge by his labor the fine and costs, the party hiring such convict shall not be liable on his, her or their bond on amount greater than the time worked by such convict before his escape; provided, that the convict is rearrested and again placed in the custody of the Sheriff or Constable; and provided further, that in case any convict shall escape from such employer, he shall be deemed guilty of an offense, and, if recaptured, he shall, upon conviction by any court of competent jurisdiction, be fined in any sum not less than double the amount of the fine assessed against him in the first case, together with all costs of suit and recapture, and compelled to discharge the same by his labor, as provided for in the provisions of this act; and should any such convict, after a second conviction, comply faithfully with the terms of the contract, he shall be entitled to a deduction of twenty-five per cent. upon his labor on the second fine so imposed.

Sec. 5. Upon the breach of said bond it shall be the duty of the County Judge to cause said bond to be sued upon in any court having competent jurisdiction; and upon the recovery of a judgment against the principal and surety or sureties on said bond, and the collection of the amount of said judgment, the same shall be paid into the County Treasury.

Sec. 6. All moneys arising from hiring out or employing county convicts, shall be paid over to the County Judge, and by him paid into the County Treasury. But in every instance the county convict or convicts shall receive full credit for the amount of his labor, to be entered and counted in discharge of the fine and costs adjudged against him; and whenever his earning shall be sufficient to pay in full the fine and costs adjudged against him, he shall be discharged.

Sec. 7. All fines collected under the provisions of this act shall be paid into the County Treasury, unless the destination of said fines or fine is otherwise fixed by law, and shall constitute a portion of the "Jury Fund," and all costs so collected shall be paid to the respective officers to whom they may be due.

Sec. 8. When convicts employed on public works or improvements, or in public work-houses, shall have paid the full amount of their fines and costs by their labor, then the County Judge shall issue a warrant in favor of each officer to whom costs may be due, for the amount of his costs, on the County Treasurer, and the same shall be paid, if there are sufficient funds in the Treasury for that purpose, out of the jury fund aforesaid. If there be not sufficient funds to pay the same, then said warrants shall be audited and registered, and paid whenever there are sufficient funds to pay the same, in the order of their registration.

Sec. 9. In order more effectually to accomplish the purposes of Section 1 of this act, it shall be the duty of the Commissioners' Court of each county in this State, wherever the public good may demand it, to provide for the erection of such work-houses in their respective counties as may be necessary to utilize the labor of county convicts; and they may, in addition thereto, purchase land for the establishment and carrying on of county farms by the labor of such convicts.

Sec. 10. Such work-houses and county farms shall be under the control and management of the Commissioners' Court, under such rules and regulations as they may, from time to time, deem proper to adopt; provided, that no such rules or regulations shall be in contravention of any law in this State; and, provided further, that such rules and regulations shall have direct reference to carrying out the purposes of this act.

Sec. 11. No county convict shall be allowed to work on any public work or improvement whatever where there may be danger of his escape; nor shall he be compelled to labor at any kind of business or in any avocation that would tend to impair his health or strength.

Sec. 12. All persons hiring convicts under the provisions of this act, shall, in addition to the bond required in Section 4, obligate themselves to furnish said convicts, so hired, with good and wholesome food, with comfortable clothing, and medicine when sick; shall not require them to work at unreasonable hours, or for a longer time during any one day than other laborers, doing the same kind of labor, are accustomed to do.

Sec. 13. The management and control of county convicts are confided to County Judges and the Commissioners' Courts; and all the duties herein required shall be performed as herein prescribed, or as may be hereinafter authorized; but said Judges and Commissioners' Courts shall always have the right to require the aid of the sheriffs of their respective counties; and all lawful orders or process necessary to be issued and executed shall be executed by said Sheriffs.

Sec. 14. Until otherwise provided by law, County Judges shall receive as compensation for their services the following fees, to-wit: For every contract of hire the sum of two dollars; for every bond required by this act, when prepared by County Judges, the sum of one dollar; for the examination and approval of each bond, the sum of fifty cents; said fees to be paid in every instance in advance, by the party or parties hiring such convicts; to be repaid to the contractor or employer, when demanded, out of the wages of such convict or convicts.

Sec. 15. County Judges and County Commissioners' Courts shall cause a record of all their proceedings under this law to be recorded in well bound books, to be provided for that purpose; said records shall contain: First—A descriptive list of all persons known as "county convicts." Second—How such convict has been or is employed. Third—The name of the party or parties hiring such convict. Fourth—The time when and the price at which such convict has been employed. Fifth—The amount paid or allowed for such employment or hire. Sixth—The amount due by such convict as fine and costs. Seventh—Such other information as may be necessary and required under the rules adopted by said Commissioners' Court.

Sec. 16. The words, "county convicts," as used in this act, shall be understood to mean persons convicted of misdemeanors or petty offenses and committed to jail in default of the payment of the fine and costs adjudged against them. The use of the "plural" shall include also the "singular," and vice versa, and the use of the "masculine" shall include the "feminine," and vice versa.

Sec. 17. Whereas, in many counties of the State, criminals are confined at the expense of the counties, such as to create a public necessity and emergency therefor, be it enacted that this law go into effect from and after its passage.

Approved August 21, 1876.

Takes effect from its passage.

CHAPTER CXXXIX.—An Act to amend Article 724 of an act entitled “An Act to adopt and establish a penal code for the State of Texas,” approved August 28, 1856.

Section 1. Be it enacted by the Legislature of the State of Texas, That Article 724 of an act entitled “An Act to adopt and establish a penal code for the State of Texas,” approved August 28, 1856, be so amended as to hereafter read as follows, to-wit:

“Art. 724. The offense of burglary is constituted by entering a house by force, threats or fraud, at night, or in like manner by entering a house during the day, and remaining concealed therein until night, with the intent, in either case, of committing felony or the crime of theft.

Sec. 2. That owing to the near approach of the close of the session, an imperative public necessity exists for the suspension of the rules, in order to place this bill on its immediate passage.

Approved August 21, 1876.

Takes effect ninety days after adjournment.

CHAPTER CXL.—An Act to regulate the practice of medicine.

Section 1. Be it enacted by the Legislature of the State of Texas, That no person shall be permitted to practice medicine, in any of its branches or departments, in this State, without first having a certificate of qualification from some authorized Board of Medical Examiners, as hereinafter provided.

Sec. 2. That every person who may hereafter engage in the practice of medicine, in any of its branches or departments, in this State, shall, before entering upon such practice, furnish to the Clerk of the District Court of the county in which such practitioner may reside or sojourn, his certificate of qualification; and said Clerk shall enter the name of said person in a well bound book kept in his office for that purpose, together with the time when, the place where, and the person or persons by whom such certificate of qualification was given, after which he shall return the said certificate to the owner thereof; for which service said Clerk shall be entitled to receive from each, any and every such applicant the sum of one dollar.

Sec. 3. That the Presiding Judges of the District Courts of the several Judicial Districts shall, at the first regular term of their courts after this act shall become a law, or as soon thereafter as practicable, severally appoint a Board of Medical Examiners, for their respective districts, to be composed of not less than three practicing physicians of known ability, and having certificates of qualification for the practice of medicine under the “Act to regulate the practice of medicine,” passed May 16, 1873, said Board of Examiners to continue in office two years from and after their appointment; and they shall, immediately after accepting such appointment, select one of their number President, and one as Secretary, and adopt all necessary rules for the guidance and control of their meetings. It shall be the duty of said Board of Medical Examiners to examine all applicants for certificates of qualification to practice medicine, in any of its branches or departments, in this State, whether such applicants are furnished with medical diplomas or not, upon the following named subjects, to-wit: Anatomy, physiology, pathological anatomy and pathology, surgery, obstetrics, and chemistry; said examination to be thorough. When the said Board of Medical Examiners shall have been satisfied as to the qualifications of said applicant, they shall grant

to him a certificate to that effect, which certificate shall be recorded with the Clerk of the District Court of the county in which said applicant may reside or sojourn, as provided in section two of this act, which certificate shall entitle him to practice anywhere in this State. Such Board of Examiners shall be entitled to receive the sum of fifteen dollars for each and every such applicant, to be paid by the applicant or party so examined; any two of them shall have authority to grant certificates, and whenever a vacancy occurs in any of said Boards, the same shall be filled by appointment by the Judge of the district in which such vacancy occurs.

Sec. 4. That said Boards shall meet regularly semi-annually at some central point in their respective districts, to conduct examinations and grant certificates, as hereinbefore provided, and they shall give at least one month's public notice of said meeting, by publication in some paper published in the judicial district, specifying the time and place thereof; provided, that any member of any of said Boards shall have authority to grant a temporary license or certificate to an applicant, upon examination, until the next regular meeting of the Board, at which time the temporary license shall cease, but the said applicant must apply for a thorough examination. Each and every one of such Boards shall procure a seal, as soon as practicable after their organization, which seal shall be impressed upon every certificate granted.

Sec. 5. That any person violating any of the provisions of this act shall be guilty of a misdemeanor, and on conviction thereof, before any court having competent jurisdiction, shall be fined in any sum not less than fifty dollars, and not more than five hundred (\$500) dollars, for every such offense, one-half of such fine shall be paid to the prosecutor, and the other half into the County Treasury; and it shall be the duty of the Judge of each judicial district, at each term of the District Court in the respective counties composing his district, to charge the grand jury with the necessity of preserving this act inviolate, and to admonish them of their duty to find presentments against any and all persons guilty of its infraction; provided, that nothing in this act shall be so construed as to exclude or disqualify any person who may have been already qualified for the practice of medicine under the act of May 16, 1873; provided, that nothing in this act shall be so construed as to apply to those who have been regularly engaged in the general practice of medicine in this State, in any of its branches or departments, for a period of five consecutive years in this State prior to the first day of January, 1873; nor to those who have obtained certificates of qualification under said act; nor to females who follow the practice of midwifery, strictly as such.

Sec. 6. An act entitled, "An Act to regulate the practice of medicine," passed sixteenth of May, 1873, and all other laws or parts of laws in conflict herewith, are hereby repealed.

Sec. 7. It being important that the benefits of this act be realized at once, creates such imperative public necessity and an emergency as requires that it be of force and effect upon its passage, and it is so declared.

Approved August 21, 1876.

Takes effect ninety days after adjournment.

CHAPTER CXLI.—An Act to provide for filling vacancies in the office of District Clerk.

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever vacancies occur in the office of District Clerk, from any cause, the same shall be filled by the District Judge of the district where such vacancy occur; and the person so appointed shall hold his office until the next general election; the person so appointed shall give bond and qualify as if he were elected.

Sec. 2. That an imperative public necessity exists, and the emergency requires the immediate passage of this act, therefore be it enacted that this act take effect and be in force from and after its passage.

Approved August 19, 1876.

Takes effect from its passage.

CHAPTER CXLII.—An Act to repeal Article 764 of an act entitled: "An Act to establish a penal code for the State of Texas," approved August 28, 1856.

Section 1. Be it enacted by the Legislature of the State of Texas, That article 764 of an act entitled, "An Act to establish a penal code for the State of Texas," approved August 28, 1856, be, and the same is hereby repealed.

Sec. 2. Whereas, the jails of the country are overburdened with parties charged with petty thefts, and the several counties in the State are daily increasing their indebtedness in consequence of the necessity of the support of such criminals, therefore there exists a public emergency and necessity for immediate relief, and that this act go into effect and be in force from and after its passage.

Approved August 21, 1876.

Takes effect from its passage.

CHAPTER CXLIII.—An Act to regulate procedure in relation to common uses of certain inclosed lands.

Whereas, Public policy and private economy encourage the inclosing of lands of separate owners in one inclosure for pasturage, therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever lands of separate owners shall be in one inclosure for pasturage, exclusive of any interior inclosure, either with or without an agreement among any or all of such separate owners in relation to common pasturage of their respective portions of such pastoral premises, the District Court for any county in which all or part of such premises may be situated shall have jurisdiction to determine and enforce the pastoral rights of such owners, according to appropriate equity.

Sec. 2. In case of an agreement among any or all of such separate owners in relation to common pasturage of their respective portions of such pastoral premises, any interested party may proceed in court, in the usual way, for redress on account of alleged injury, either enforce the agreement, or to rescind it with other relief; and in the latter alternative, to procure equitable adjustment, including provision for the subsequent use of the premises.

Sec. 3. When the interests in such pasturage shall not be affected by contract, any interested party may proceed in court, in the usual

way to have the rights of pasturage apportioned among such separate owners; and the proportions of common pasturage shall be equitable, with due appreciation not only of the values of the pasturages of the land so owned respectively, but also of the comparative values of corresponding portions of the inclosing work, and also of the actual values of contributions to such work in behalf of the separate interests in such pasturage. In making such apportionment, the court if it should consider such aid necessary, would be authorized to have such values estimated by commissioners, to be appointed by the court, and sworn to perform their duties as prescribed in an order of the court. The commissioners might have assistance by a surveyor, if the order should so provide; and the costs of such commission, for allowance and payment, would be as provided by order of the court. Any report of the commissioners would be subject to approval or rejection by the court. When approved, such report would be competent evidence in the trial of the case, without being conclusive, to be used in connection with other evidence.

Sec. 4. This act applies to separate ownerships of land, as inclosed by any means that may be sufficient to prevent ordinary passing of the larger kinds of live stock, whether such hinderance be artificial or natural, in whole or in part, including a water boundary. And this act recognizes the right of any owner of land to inclose it, not intruding on the premises of a separate owner, although his land be also inclosed, by using either artificial or natural means, or both kinds, adapted to prevent ordinary passing of such live stock, and so availing, when practicable, of the common right of a proprietor of land to use an adjacent water boundary for the purpose of inclosure.

Sec. 5. That owing to the near approach of the close of the session, an imperative public necessity exists for the suspension of the rules, to put this bill on its final passage.

Approved August 21, 1876.

Takes effect ninety days after adjournment.

CHAPTER CXLIV.—An Act dividing Young and Bexar Territories into counties, and defining the boundaries thereof, and of certain other counties herein named.

Section 1. Be it enacted by the Legislature of the State of Texas, That the following named new counties shall be, and are hereby created out of Young and Bexar territories, and the boundaries shall be as follows:

The county of Lipscomb: Beginning at a monument on the intersection of the one hundredth meridian, and the thirty-six and a half ($36\frac{1}{2}$) degree of latitude, 1629 feet north of the 132nd mile post on the one hundredth meridian; thence west thirty miles to the thirtieth mile post on the $36\frac{1}{2}$ degree of latitude; thence south thirty miles and 1629 feet; thence east thirty miles to the 102nd mile post; thence north thirty miles and 1629 feet to beginning.

The county of Ochiltree: Beginning at the northwest corner of the county of Lipscomb; thence west thirty miles to the sixtieth mile post; thence south thirty miles; thence east thirty miles to the southwest corner of Lipscomb county; thence north thirty miles to place of beginning.

The county of Hansford: Beginning at the northwest corner of Ochiltree county; thence west thirty miles to the ninetieth mile post; thence

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south thirty miles; thence east thirty miles to the southwest corner of Ochiltree county; thence north thirty miles to the place of beginning.

The county of Sherman: Beginning at the ninetieth mile post, the northwest corner of Hansford county; thence west thirty miles to the one hundred and twentieth mile post; thence south thirty miles; thence east thirty miles to the southwest corner of Hansford county; thence north thirty miles to the place of beginning.

The county of Dallam: Beginning at the one hundred and twentieth mile post at the northwest corner of Sherman county; thence west about 47 miles to the 103rd meridian, and to a monument; thence south thirty miles; thence east forty-seven miles to the southwest corner of Sherman county; thence north thirty miles to the place of beginning.

The county of Hartley: Beginning on the 103rd meridian, and the southwest corner of Dallam county; thence east about forty-seven miles to the southwest corner of Sherman county and southeast corner of Dallam county; thence south thirty miles; thence west forty-seven miles; thence north thirty miles to the place of beginning.

The county of Moore: Beginning at the northeast corner of Hartley county and southwest corner of Sherman county; thence east thirty miles to the southwest corner of Hansford county; thence south thirty miles; thence west thirty miles to the southeast corner of Hartley county; thence north thirty miles to the place of beginning.

The county of Hutchinson: Beginning at the northeast corner of Moore county; thence east thirty miles; thence south thirty miles; thence west thirty miles; thence north thirty miles to the place of beginning.

The county of Roberts: Beginning at the northeast corner of Hutchinson county, and the southeast corner of Hansford county and southwest corner of Ochiltree county; thence east thirty miles to southeast corner of Ochiltree county and southwest corner of Lipscomb county; thence south thirty miles; thence west thirty miles to southeast corner of Hutchinson county; thence north thirty miles to the place of beginning.

The county of Hemphill: Beginning at the northeast corner of Roberts county, and the southeast corner of Ochiltree county and southwest corner of Lipscomb county; thence east thirty miles to the southeast corner of Lipscomb county, to the 102nd mile post on the 100th meridian; thence south thirty miles to the 72nd mile post; thence west thirty miles to the southeast corner of Roberts county; thence north thirty miles to the place of beginning.

The county of Wheeler: Beginning at the 72nd mile post, on the 100th meridian, the southeast corner of Hemphill county; thence west thirty miles to the southwest corner of Hemphill county and the southeast corner of Roberts county; thence south thirty miles; thence east thirty miles to the 42nd mile post, on the 100th meridian; thence north thirty miles to the place of beginning.

The county of Gray: Beginning at the northwest corner of Wheeler county and the southwest corner of Hemphill county; thence west thirty miles; thence south thirty miles; thence east thirty miles to the southwest corner of Wheeler county; thence north thirty miles to the place of beginning.

The county of Carson: Beginning at the northwest corner of Gray county and southwest corner of Roberts county and southeast corner of Hutchinson county; thence south thirty miles; thence west thirty

miles; thence north thirty miles; thence east thirty miles to the place of beginning.

The county of Potter: Beginning at the northwest corner of Carson county and southwest corner of Hutchinson county, and southeast corner of Moore county; thence west thirty miles to southwest corner of Moore county and southeast corner of Hartley county; thence south thirty miles; thence east thirty miles to the southwest corner of Carson county; thence north thirty miles to the place of beginning.

The county of Oldham: Beginning at the northwest corner of Potter county, and southwest corner of Moore county and southeast corner of Hartley county; thence west about forty-seven miles to southwest corner of Hartley county, on the 103rd meridian; thence south thirty miles; thence east about forty-seven miles to southwest corner of Potter county; thence north thirty miles to the place of beginning.

The county of Deaf Smith: Beginning at the southwest corner of Oldham county, on the 103rd meridian; thence east about forty-seven miles to the southeast corner of Oldham county and southwest corner of Potter county; thence south thirty miles; thence west about forty-seven miles to the 103rd meridian; thence north thirty miles to the place of beginning.

The county of Randall: Beginning at the northeast corner of Deaf Smith county, and southeast corner of Oldham county and southwest corner of Potter county; thence east thirty miles to the southeast corner of Potter county and southwest corner of Carson county; thence south thirty miles; thence west thirty miles to southeast corner of Deaf Smith county; thence north thirty miles to the place of beginning.

The county of Armstrong: Beginning at the northeast corner of Randall county, and southeast corner of Potter county and southwest corner of Carson County; thence east thirty miles to the southeast corner of Carson county and southwest corner of Gray county; thence south thirty miles; thence west thirty miles to southeast corner of Randall county; thence north thirty miles to the place of beginning.

The county of Donley: Beginning at the northeast corner of Armstrong county, and southeast corner of Carson county and southwest corner of Gray county; thence south thirty miles; thence east thirty miles; thence north thirty miles to the place of beginning.

The county of Collingsworth: Beginning at the northeast corner of Donley county, and southeast corner of Gray county and southwest corner of Wheeler county; thence east thirty miles to the southeast corner of Wheeler county, at the 42nd mile post on the 100th meridian; thence south thirty miles; thence west thirty miles to the southeast corner of Donley county; thence north thirty miles to the place of beginning.

The county of Childress: Beginning at the southeast corner of Collingsworth county, at the 12th mile post, on the 100th meridian; thence west 23 miles; thence south thirty miles; thence east about thirty-five miles, to the new west line of Hardeman county; thence north to Prairie-dog Town river; thence up said river to the initial monument on the 100th meridian; thence north to the 12th mile post, at the place of beginning.

The county of Hall: Beginning at the northwest corner of Childress county; thence west thirty miles; thence south thirty miles; thence east thirty miles to the southwest corner of Childress county; thence north thirty miles to the place of beginning.

The county of Briscoe: Beginning at the northwest corner of Hall county; thence west thirty miles; thence south thirty miles; thence east thirty miles; thence north thirty miles to the place of beginning.

The county of Swisher: Beginning at the northwest corner of Briscoe county; thence west thirty miles; thence south thirty miles; thence east thirty miles to southwest corner of Briscoe county; thence north thirty miles to the place of beginning.

The county of Castro: Beginning at the northwest corner of Swisher county; thence west thirty miles; thence south thirty miles; thence east thirty miles to southwest corner of Swisher county; thence north thirty miles to the place of beginning.

The county of Parmer: Beginning at the northwest corner of Castro county; thence west to the 103rd meridian and the southwest corner of Deaf Smith county; thence south with 103rd meridian thirty miles; thence east to the southwest corner of Castro county; thence north thirty miles to the place of beginning.

The county of Cottle: Beginning at the southeast corner of Childress county in the new west line of Hardeman county; thence west thirty miles; thence south to a point due west of the southwest corner of Hardeman county; thence east thirty miles to the new southwest corner of Hardeman county; thence north to the place of beginning.

The county of Motley: Beginning at the northwest corner of Cottle county; thence west thirty miles; thence south to a point thirty miles due west of the southwest corner of Cottle county; thence east thirty miles to the southwest corner of Cottle county; thence north thirty miles to the place of beginning.

The county of Floyd: Beginning at the northwest corner of Motley county; thence west thirty miles; thence south to a point thirty miles due west of the southwest corner of Motley county; thence east thirty miles to the southwest corner of Motley county; thence north to the place of beginning.

The county of Hale: Beginning at the northwest corner of Floyd county; thence west thirty miles; thence south to a point thirty miles due west of the southwest corner of Floyd county; thence east thirty miles to the southwest corner of Floyd county; thence north to the place of beginning.

The county of Lamb: Beginning at the northwest corner of Hale county; thence west thirty miles; thence south to a point thirty miles due west of the southwest corner of Hale county; thence east thirty miles to the southwest corner of Hale county; thence north to the place of beginning.

The county of Bailey: Beginning at the northwest corner of Lamb county; thence west to the 103rd meridian, at the southwest corner of Parmer county; thence south with the 103rd meridian to a point due west of the southwest corner of Lamb county; thence east to the southwest corner of Lamb county; thence north to the place of beginning.

The county of Cockran: Beginning at the southwest corner of Bailey county in the 103rd meridian; thence east to the southeast corner of Bailey county and southwest corner of Lamb county; thence south thirty miles; thence west to the 103rd meridian; thence north with said meridian to the place of beginning.

The county of Hockley: Beginning at the northeast corner of Cockran county, southeast corner of Bailey county and southwest corner of Lamb county; thence east thirty miles to the southeast corner of Lamb

county and southwest corner of Hale county; thence south thirty miles; thence west thirty miles to the southeast corner of Cockran county; thence north to the place of beginning.

The county of Lubbock: Beginning at the northeast corner of Hockley county; thence east thirty miles; thence south thirty miles; thence west thirty miles to southeast corner of Hockley county; thence north to the place of beginning;

The county of Crosby: Beginning at the northeast corner of Lubbock county; thence east thirty miles to the southeast corner of Floyd county and southwest corner of Motley county; thence south thirty miles; thence west thirty miles to the southeast corner of Lubbock county; thence north thirty miles to the place of beginning.

The county of Dickens: Beginning at the northeast corner of Crosby county; thence east thirty miles; thence south thirty miles; thence west thirty miles to southeast corner of Crosby county; thence north thirty miles to the place of beginning.

The county of King: Beginning at the northeast corner of Dickens county; thence east thirty miles to the southeast corner of Cottle county; thence south thirty miles to the southwest corner of the new line of Knox county; thence west thirty miles to the southeast corner of Dickens county; thence north thirty miles to the place of beginning.

The county of Stonewall: Beginning at the southeast corner of King county; thence west thirty miles to the southwestern corner of Cottle county and southeast corner of Dickens county; thence south thirty miles; thence east thirty miles to southwest corner of new line of Haskell county; thence north thirty miles to the place of beginning.

The county of Kent: Beginning at the northwest corner of Stonewall county; thence west thirty miles; thence south thirty miles; thence east thirty miles to the southwest corner of Stonewall county; thence north thirty miles to the place of beginning.

The county of Garza: Beginning at the northwest corner of Kent county; thence west thirty miles; thence south thirty miles; thence east thirty miles; thence north thirty miles to the place of beginning.

The county of Lynn: Beginning at the northwest corner of Garza county; thence west thirty miles, to the southwest corner of Lubbock county; thence south thirty miles; thence east thirty miles; thence north thirty miles to the place of beginning.

The county of Terry: Beginning at the northwest corner of Lynn county; thence west thirty miles; thence south thirty miles; thence east thirty miles to southwest corner of Lynn county; thence north thirty miles to the place of beginning.

The county of Yoakum: Beginning at the northwest corner of Terry county; thence west to the southwest corner of Cockran county, on 103rd meridian; thence south thirty miles with said meridian; thence east to the southwest corner of Terry county; thence north thirty miles to the place of beginning.

The county of Fisher: Beginning at the northwest corner of Jones county—new corner; thence west thirty miles; thence south thirty miles; thence east thirty miles; thence north thirty miles to the place of beginning.

The county of Scurry: Beginning at the northwest corner of Fisher county; thence west thirty miles; thence south thirty miles; thence east thirty miles; thence north thirty miles to the place of beginning.

The county of Borden: Beginning at the northwest corner of Scurry

county; thence west thirty miles; thence south thirty miles; thence east thirty miles to the southwest corner of Scurry county; thence north thirty miles to the place of beginning.

The county of Dawson: Beginning at the northwest corner of Borden county; thence west thirty miles; thence south thirty miles; thence east thirty miles to the southwest corner of Borden county; thence north thirty miles to the place of beginning.

The county of Gaines: Beginning at the northwest corner of Dawson county; thence west to the southwest corner of Yoakum county in the 103rd meridian; thence south with said meridian thirty miles; thence east to the southwest corner of Dawson county; thence north thirty miles to the place of beginning.

The county of Andrews: Beginning at the southwest corner of Gaines county in the 103rd meridian; thence east to the southeast corner of Gaines county; thence south thirty miles; thence west to the 103rd meridian; thence north with said meridian to the place of beginning.

The county of Martin: Beginning at the northeast corner of Andrews county and the southeast corner of Gaines county; thence east thirty miles to the southeast corner of Dawson county; thence south thirty miles; thence west thirty miles to the southeast corner of Andrews county; thence north thirty miles to the place of beginning.

The county of Howard: Beginning at the northeast corner of Martin county and the southeast corner of Dawson county; thence east thirty miles to the southeast corner of Borden county; thence south thirty miles; thence west thirty miles to the southeast corner of Martin county; thence north thirty miles to the place of beginning.

The county of Mitchell: Beginning at the northeast corner of Howard county and southeast corner of Borden county; thence east thirty miles to the southeast corner of Scurry county; thence south thirty miles; thence west thirty miles to the southeast corner of Howard county; thence north thirty miles to the place of beginning.

The county of Nolan: Beginning at the northeast corner of Mitchell county and the southeast corner of Scurry county; thence east thirty miles to the southeast corner of Fisher county and the new southwest corner of Jones county, and the new northwest corner of Taylor county; thence south thirty miles to the new southwest corner of Taylor county; thence west thirty miles to the southeast corner of Mitchell county; thence north to the place of beginning.

The county of Callahan shall be bounded as follows: Beginning at the southwest corner of Stephens county and the southeast corner of Shackelford county; thence west thirty miles; thence south thirty miles; thence east thirty miles; thence north thirty miles to the place of beginning.

The boundary of Eastland county line shall be hereafter as follows: Beginning at the southwest corner of Stephens county and southeast corner of Shackelford county, and northeast corner of Callahan county; thence South thirty miles to the southwest corner of Eastland county and southeast corner of Callahan county.

Taylor county shall hereafter be bounded as follows: Beginning at the northwest corner of Callahan county and the southwest corner of Shackelford county and the southeast corner of Jones county; thence west thirty miles to the southwest corner of Jones county; thence south thirty miles; thence east thirty miles to the southwest corner of Callahan county; thence north thirty miles to the place of beginning.

The county of Jones shall hereafter be bounded as follows: Beginning at the southwest corner of Shackelford county and northwest corner of Callahan county; thence west thirty miles; thence north thirty miles; thence east thirty miles; thence south thirty miles to the place of beginning.

Haskell county shall hereafter be bounded as follows: Beginning at the southwest corner of Throckmorton county; thence west thirty miles; thence north thirty miles; thence east thirty miles to the southwest corner of Baylor county and the northwest corner of Throckmorton county; thence south thirty miles to the place of beginning.

Knox county shall hereafter be bounded as follows: Beginning at the southwest corner of Baylor county and the northwest corner of Throckmorton county; thence west thirty miles; thence north thirty miles; thence east thirty miles to the southwest corner of Wilbarger county and northwest corner of Baylor county; thence south thirty miles to the place of beginning.

Hardeman county shall hereafter be bounded as follows: Beginning at the southwest corner of Wilbarger county; thence west thirty miles; thence north to the Prairie-dog Town River; thence down said river to the western boundary line of Wilbarger county; thence south with said line to the place of beginning.

Sec. 2. The county of Hemphill is named in honor of John Hemphill, the first Chief Justice of the Supreme Court of Texas. The county of Wheeler is named in honor of Royall T. Wheeler, the second Chief Justice of the Supreme Court of Texas. The county of Lipscomb is named in honor of Abner S. Lipscomb, one of the associate Justices of the first Supreme Court of Texas. The county of Collingsworth is named in honor of James Collingsworth, the first Chief Justice of the Republic of Texas. The county of Ochiltree is named in honor of W. B. Ochiltree, a distinguished Texan Judge. The county of Sherman is named in honor of Sidney Sherman, a distinguished soldier of San Jacinto. The county of Moore is named in honor of Commodore E. W. Moore, of the Texas Navy. The county of Hockley is named in honor of G. W. Hockley, who was Adjutant and Inspector-General at the battle of San Jacinto. The county of Martin is named in honor of Wyly Martin, the President of the Consultation. The county of Potter is named in honor of Robert Potter, a distinguished Texan in the days of the Republic. The county of Carson is named in honor of Samuel P. Carson, Secretary of State under the Republic. The county of Fisher is named in honor of S. Rhoads Fisher, a distinguished officer of the Republic. The county of Castro is named in honor of Henry Castro, a distinguished pioneer and colonizer of Texas. The county of Swisher is named in honor of James G. Swisher, who commanded a company at the storming of Bexar, in 1835, and was one of the signers of the Declaration of Texas Independence. The county of Briscoe is named in honor of Andrew Briscoe, who commanded a company at the battle of Concepcion, in 1835. The county of Childress is named in honor of George C. Childress, the author of the Declaration of Texan Independence. The county of Hansford is named in honor of John M. Hansford, one of the Judges during the Republic. The county of Hutchinson is named in honor of Anderson Hutchinson, one of the Judges during the Republic. The county of Dallam is named in honor of James W. Dallam, a laborious lawyer of the Texan Republic. The county of Oldham is named in honor of Williamson S. Oldham, Sr., a distinguished jurist and orator of Texas. The county

of Gray is named in honor of Peter W. Gray, the learned and incorruptible Judge, the able advocate and unflinching patriot. The county of Donley is named in honor of Stockton P. Donley, one of the Supreme Judges of Texas. The county of Scurry is named in honor of Wm. R. Scurry, who fought and died as a soldier should. The county of Randall is named in honor of H. Randall, who fell in battle at the head of his brigade. The county of Mitchell is named in honor of two brothers, Asa Mitchell, a member of the Consultation, and Eli Mitchell, who fired the first cannon in the Texas Revolution, at Gonzales. The county of Howard is named in honor of Volney E. Howard, a distinguished orator and Congressman from Texas. The county of Nolan is named in honor of Philip Nolan, the great pioneer and scout, who explored Texas in 1800. The county of Deaf Smith is named in honor of Erastus Smith, the intrepid spy, who served his country so well in the Revolution of 1836. The county of Lubbock is named in honor of Tom Lubbock, Colonel of the Terry Rangers. The county of Crosby is named in honor of Stephen Crosby, one of the Commissioners of the General Land Office. The county of Garza is named in honor of the family of that name, who were one of the first thirteen families who came from the Canary Islands and founded San Antonio. The county of King is named in honor of W. King, one of the heroes who fell at the Alamo. The county of Stonewall is named in honor of the immortal T. J. Jackson. The county of Kent is named in honor of R. Kent, one of those who made the Alamo glorious. The county of Dawson is named in honor of Nicholas Dawson, who commanded the Texas troops at the Salado massacre in 1842. The county of Lynn is named in honor of G. W. Lynn, one of those who baptized the altar of Texas with his life-blood at the Alamo. The county of Lamb is named in honor of Lieutenant Lamb, who fell at San Jacinto. The county of Hale is named in honor of Lieutenant J. C. Hale, who fell at San Jacinto. The county of Floyd is named in honor of D. Floyd, whose name is inscribed on the monumental stone of the Alamo. The county of Motley is named in honor of Dr. William Motley, who was mortally wounded in the battle of San Jacinto. The county of Cottle is named in honor of G. W. Cottle, who fell fighting for Texas at the Alamo. The county of Borden is named in honor of Gail Borden, an early Texas pioneer, afterwards distinguished in the scientific world. The county of Dickens is named in honor of J. Dickens, who sacrificed his life on the altar of Texas liberty at the Alamo. The county of Yoakum is named in honor of Henderson Yoakum, the historian of Texas. The county of Cockran is named in honor of — Cockran, a private, who died at his post of duty in the Alamo. The county of Terry is named in honor of Frank Terry, whose name is inseparably linked with that other glorious name, "Texas Ranger." The county of Bailey is named in honor of — Bailey, a name which cannot be entirely defaced from the monument of the Alamo. The county of Hall is named in honor of Warren D. C. Hall, who was Adjutant-General of the Texas army in 1835. The county of Andrews is named in honor of Richard Andrews, the first Texan who fell in the Revolution, and who was killed at the battle of Concepcion, on the 28th of October, 1835. The county of Hartley is named in honor of the two brothers, O. C. and R. K. Hartley, distinguished members of the Texas bar. The county of Roberts is named in honor of John S. Roberts, one of the signers of the Declaration of Texas Independence, and other distinguished Texans of the

same name. The county of Armstrong is named in honor of several early Texas pioneers of that name. The county of Parmer is named in honor of Martin Parmer, an eccentric Texan of the olden time, and one of the signers of the Declaration of Texas Independence. The county of Gaines is named in honor of James Gaines, an old Texan and valuable citizen.

Sec. 3. That the law creating Wegefath county, and all laws and parts of laws in conflict with this act, be and the same are hereby repealed.

Sec. 4. That the counties of Collingsworth, Donley, Gray, Wheeler, Roberts, Hemphill, Lipscomb, Hall, Ochiltree and Childress, be and the same are hereby attached to the county of Clay, for judicial, surveying and all other purposes.

Sec. 5. That the counties of Bailey, Lamb, Hale, Motley, Cottle, Floyd, Briscoe, Swisher, Castro, Parmer, Deaf Smith, Oldham, Hartley, Moore, Hutchinson, Hansford, Sherman, Dallam, Potter, Carson, Randall and Armstrong, be and the same are hereby attached to the county of Jack, for judicial, surveying and all other purposes.

Sec. 6. That the counties of King, Dickens, Crosby, Lubbock, Hockley, Cockran, Stonewall, Kent, Garza, Lynn, Terry and Yoakum, be and the same are hereby attached to the county of Young, for judicial, surveying and all other purposes.

Sec. 7. That the counties of Fisher, Scurry, Borden, Dawson, Gaines, Andrews, Martin, Howard, Mitchell and Nolan, be and the same are hereby attached to the county of Shackelford, for judicial, surveying and all other purposes.

Sec. 8. Whereas, these counties are unorganized and unattached to any organized counties, and there is no judicial authority having jurisdiction over this part of the public domain to try offenders for any offenses committed therein, an imperative public necessity exists for the immediate passage and operation of this act; therefore, that it take effect and be in full force from and after its passage.

Approved August 21, 1876.

Takes effect ninety days after adjournment.

CHAPTER CXLV.—An Act to amend Article 757 of an act entitled,

“An Act to adopt and establish a penal code for the State of Texas,”

approved August 26, 1856; November 12, 1866.

Section 1. Be it enacted by the Legislature of the State of Texas, That Article 757 of the above recited act shall hereafter read as follows, viz: “Theft of property, under the value of twenty dollars, shall be punished by imprisonment in the county jail for a term not exceeding one year, during which time the prisoner may be put to hard work, and by fine not exceeding five hundred dollars, or by such imprisonment without fine.”

Sec. 2. That all laws and parts of laws in conflict with the provisions of this act be, and the same are hereby repealed.

Approved August 21, 1876.

Takes effect ninety days after adjournment.

CHAPTER CXLVI.—An Act to regulate taxation and to fix the rate of the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be levied and collected an annual direct ad valorem State

tax of one-half ($\frac{1}{2}$) of one per cent. of the cash value thereof, estimated in lawful currency of the United States, on all real property situate, and all movable property owned in this State (except so much thereof as is exempted from taxation by the laws of this State), on the first day of January, A. D. 1877, and on that day in every year thereafter, one-fourth ($\frac{1}{4}$) of the aforesaid tax shall be for the benefit of public schools, and three-fourths ($\frac{3}{4}$) for the support of the State Government, and the payment of the interest on the public debt, as may be directed by law; provided, the cost of assessing and collecting shall be paid pro rata out of each fund.

Sec. 2. That there shall be levied on and collected from every male person between the ages of twenty-one and sixty years, resident within this State, on the first day of January, 1877, and on that day in every year thereafter (Indians not taxed and persons insane excepted), an annual poll tax of two dollars each, one dollar for the use and benefit of public free schools, and one dollar for general revenue purposes.

Sec. 3. That there shall be levied on and collected from every person, firm, company or association of persons, pursuing any of the following named occupations, an annual tax (except when herein otherwise provided) on every such occupation or separate establishment, as follows: For selling spirituous, vinous or other intoxicating liquors in quantities less than one quart, two hundred and fifty dollars; in quantities of a quart and less than five gallons, one hundred and fifty dollars; provided this section shall not be so construed as to include any wines, liquors or alcohol, sold by druggists exclusively for medical purposes; for selling in quantities of five gallons and over, two hundred dollars; for selling beer exclusively, fifty dollars; from every wholesale merchant, an annual tax of fifty dollars; from every first-class retail merchant, an annual tax of thirty dollars; from every second-class retail merchant, an annual tax of twenty dollars; and from every third-class retail merchant, an annual tax of ten dollars; and from every fourth-class retail merchant, an annual tax of five dollars. A wholesale merchant is one whose annual purchases amount to one hundred thousand dollars or more; a first-class retail merchant is one whose annual purchases amount to less than one hundred thousand dollars and more than fifty thousand dollars; a second-class retail merchant is one whose annual purchases amount to less than fifty thousand dollars and more than twenty-five thousand dollars; a third class retail merchant is one whose annual purchases amount to less than twenty-five thousand dollars and more than twelve thousand dollars, and a fourth class retail merchant is one whose annual purchases amount to less than twelve thousand dollars. A merchant is any person or firm engaged in buying and selling goods, wares or merchandise of any kind whatever. From every traveling person selling or bartering patent rights, fifty dollars; from every traveling person selling patent or other medicines, five hundred dollars; and no traveling person shall so sell until said tax is paid; provided, this tax shall not apply to persons traveling and selling patent medicines to merchants and druggists by the wholesale; from every fortune-teller, one hundred dollars; from every spiritualist, clairvoyant, mesmerist or medium, so-called, who plies his or her vocation for money, ten dollars for each and every county; from every person, firm or association of persons engaged in discounting and shaving paper, or engaged in business as money brokers, in any city or town exceeding five thousand inhabitants, an annual tax of one

hundred dollars; and from every other such person, firm or association of persons, an annual tax of twenty-five dollars; provided, that no such person, firm or association of persons who have paid a tax for dealing out stocks or bills of exchange, shall be so taxed. From every owner or operator of daguerran, photograph or such like gallery, by whatsoever name called, if in any incorporated city or town of less than five thousand inhabitants, ten dollars; if more than five thousand inhabitants, twenty dollars; and if elsewhere, five dollars. From every auctioneer doing business in a city of ten thousand inhabitants or over, an annual tax of fifty dollars. From every auctioneer in a city of five thousand inhabitants and less than ten thousand, forty dollars. From every auctioneer in a city of two thousand inhabitants and less than five thousand, thirty dollars. From auctioneers in all other towns or villages, twenty dollars. From every person, firm or association of persons following the occupation of ship merchandise, ten dollars. From every keeper of a public ferry, an annual tax of ten dollars. From every keeper of a toll bridge, an annual tax of ten dollars. From every person, firm or association of persons selling upon commission, if in a city of more than five thousand inhabitants, an annual tax of fifty dollars; in all other cases, twenty-five dollars. From land agents there shall be collected an annual tax of ten dollars. The term "land agent," shall be construed to mean any person or member of a firm or association of persons performing for compensation any of the following services: purchasing or selling real estate for others; purchasing or selling land certificates for others; examining into land claims for others. But this term, "land agents," shall not be so construed as to levy any tax in addition to the tax levied on attorneys-at-law. This shall not be construed to tax more than one member of any firm doing business as land agents. For every person practicing law, ten dollars; provided, that attorneys-at-law shall only pay county occupation tax in the county of his residence. For every practicing physician having a permanent home in this State, ten dollars; and for every physician or surgeon having no permanent home in this State, ten dollars in each county where he may practice his profession. For every dentist, ten dollars. For every billiard, bagatelle, pigeon-hole or Jenny Lind table, or anything of the kind used for profit, fifty dollars. For every nine or ten pin alley, without regard to any number of pins, used for pleasure or profit, fifty dollars. For every foot pedler ten dollars in each and every county. For every pedler with one horse or one pair of oxen, in each and every county, twenty-five dollars. For every pedler with two horses or two pair of oxen, fifty dollars, in each and every county in which he may pursue such occupation; provided, that nothing herein contained shall be so construed as to include traveling vendors of fruits or fruit trees, or earthenware. For every theatre or dramatic representation for which pay for admittance is demanded or received, five dollars, or one hundred and twenty-five dollars per quarter; provided, that theatrical or dramatic entertainments given by performers for instructions only, or for charitable purposes only, shall not be herein included. For every circus where equestrian performances or acrobatic feats are exhibited, for which pay for admittance is demanded or received, for each performance thereof, notwithstanding more than one such may take place daily, one hundred dollars; and for every bull fight, between men and bulls or dogs and bulls, fifty dollars for each such performance, if exhibited for pay; for every menagerie, wax work or exhibition of any kind where a separate fee for admission is

demande or received, twelve dollars for every day on which fees for such admissions are received; for every concert where a fee for admittance is demanded or received, six dollars; provided, that entertainments given by the citizens of any city or town for charitable purposes are excepted; for every livery or feed stable, one dollar for each stall, and one dollar for each hack, buggy or other vehicle; from every person, firm or association of persons, dealing in stocks or bills of exchange in any city or town exceeding ten thousand inhabitants, an annual tax of one hundred dollars; in any city or town of five thousand inhabitants and less than ten thousand, an annual tax of fifty dollars; in any city or town of one thousand inhabitants and less than five thousand, an annual tax of twenty-five dollars; in any city or town of less than one thousand inhabitants, an annual tax of ten dollars; from every life insurance company doing business in this State, an annual tax of two hundred dollars, and in every county in which they may do business, ten dollars, as county taxes; from every fire and marine insurance company doing business in this State, an annual tax of two hundred dollars, and in every county in which they may do business, five dollars, as county taxes; the State tax due from insurance companies shall be paid by the company to the Comptroller of Public Accounts, whose receipt, under seal, shall be issued to the company, certified copies of which shall be evidence of payment of State tax, and the County Collector's receipt shall be authority to work in any county in this State for which said company has a receipt; from every person, firm or association of persons dealing in lightning rods, two hundred dollars, and in every county in which they may do business, the further sum of ten dollars for the use of the county; from every person, firm or association of persons keeping a barber shop, one dollar for every chair therein at which a barber works; from every person, firm or association of persons following the occupation of cotton broker, in a city of more than five thousand inhabitants, an annual tax of fifty dollars; in all other cases twenty-five dollars; from every pawnbroker, an annual tax of forty dollars; from all sewing machine agents, the sum of one hundred dollars to the State, and twenty-five dollars to each county in which they do business.

Sec. 4. The Commissioners' Court of the several counties of this State shall have the power of levying taxes equal to one-half of the amount of the State tax herein levied, except on occupations in which there is a specific rate of taxation payable to the county, is fixed in this act; provided, that any one wishing to pursue any of the vocations named in this act for a less period than one year, may do so by paying a pro rata amount of such occupation for the period he may desire; provided, further, that no such occupation license shall issue for a less period than three months; and provided further, that the receipt of the proper officer shall be prima facie evidence of the payment of such tax; and provided further, that the provisions of this act shall not be deemed to affect the provisions of any law specially authorizing any Commissioners' Court to levy a different rate of tax; and provided, further, that the tax herein authorized to be levied by the County Commissioners' Courts shall not be construed to authorize said courts to levy a higher rate of tax than ten dollars on life insurance companies, and five dollars on fire and marine insurance companies.

Sec. 5. That any license taken out which has not expired at the date of this act taking effect, shall avail the party to whom

the same was granted for the full time for which such license was issued.

Sec. 6. That the taxes levied by this act are hereby made payable in the currency or coin of the United States; provided, that all ad valorem county tax may be paid in jury and county scrip of their respective counties.

Sec. 7. That it shall be the duty of every person, firm, corporation or association owning any property subject to taxation by the laws of this State, on the first day of January of each and every year, to render and return the same for the purposes of taxation, as is required by law.

Sec. 8. That all laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 9. Whereas, the day of adjournment has been set for next Monday, the twenty-first instant; and whereas, the finances of the State demand the passage of a law fixing the rate of taxation, therefore, an emergency and public necessity exists for the immediate passage of this act.

NOTE.—The above bill was not approved by the Governor, nor was the same returned to the house in which it originated with his objections thereto, but was filed by the Governor in the office of Secretary of State on the 21st day of August, 1876, at 11 o'clock and 10 minutes A. M., being before the Legislature adjourned, and becomes a law without the approval of the Governor, and takes effect ninety days after the adjournment of the Legislature.

A. W. DeBERRY, Secretary of State.

CHAPTER CXLVII.—An Act to make appropriations for the support of the State Government for the fiscal years ending August 31, 1877, 1878, and for additional period of time, ending December 31, 1878.

Section 1. Be it enacted by the Legislature of the State of Texas, That the following sums, or so much thereof as may be necessary, be and the same are hereby appropriated out of any moneys in the Treasury not otherwise appropriated for the support of the State Government for the fiscal years ending August 31, 1877, 1878, and for additional period of time, ending December 31, 1878:

Executive Office.

	Year ending August 31, 1877. 1878.		December 31, 1878.
For salary of Governor.....	\$4,000 00	\$4,000 00	\$1,333 33
For salary of Private Secretary.	1,800 00	1,800 00	600 00
For salary of Clerk.....	1,200 00	1,200 00	400 00
For telegraphing.....	400 00	400 00	133 33
For books and stationery.....	400 00	400 00	133 33
For postage.....	250 00	250 00	83 33
For porter hire Executive office and office of Secretary of State.....	480 00	480 00	160 00
For Gardener.....	400 00	400 00	133 33
For repairs and furniture, Gov- ernor's mansion.....	500 00	500 00	83 33
For wood, lights, etc., Execu- tive office.....	200 00	200 00	66 66
For gas for mansion.....	200 00	200 00	66 66
For contingent fund.....	200 00	200 00	66 66

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	Year ending August 31, 1877. 1878.		December 31, 1878.
For recovering fugitives from justice.....	\$15,000 00	\$15,000 00	\$5,000 00
State Department.			
For salary of Secretary of State.	\$2,000 00	\$2,000 00	\$666 66
For salary of Chief Clerk.....	1,800 00	1,800 00	600 00
For salary of two Clerks.....	2,400 00	2,400 00	800 00
For salary of extra Clerk to copy laws for printer.....	250 00	.....	.....
For postage.....	1,250 00	1,000 00	333 33
Freight and express charges....	250 00	250 00	83 33
Contingent expenses.....	50 00	50 00	16 66
For books and stationery.....	500 00	500 00	166 66
For wood.....	100 00	100 00	33 33
For lights	50 00	50 00	16 66
For printing.....	30,000 00	.....	.....
Treasury Department.			
For salary of Treasurer.....	\$2,500 00	\$2,500 00	\$833 33
For salary of Chief Clerk.....	1,800 00	1,800 00	600 00
For salary of Bookkeeper.....	1,650 00	1,650 00	550 00
For salary of Assistant Clerk..	1,200 00	1,200 00	400 00
For salary of night watchman..	900 00	900 00	300 00
For porter hire, Treasurer's and Comptroller's Departments	480 00	480 00	160 00
For books and stationery.....	300 00	300 00	100 00
For wood and lights.....	150 00	150 00	50 00
For postage.....	200 00	200 00	66 66
For contingent fund.....	100 00	100 00	33 33
Comptroller's Office.			
Salary of Comptroller.....	\$2,500 00	\$2,500 00	\$833 33
Salary of Chief Clerk.....	2,000 00	2,000 00	666 66
Salary of Bookkeeper.....	1,800 00	1,800 00	600 00
Salary of Assistant Bookkeeper	1,250 00	1,250 00	416 66
Salary of Chief Tax Clerk....	1,650 00	1,650 00	550 00
Salary of Warrant Clerk.....	1,800 00	1,800 00	600 00
Salary of Assistant Warrant Clerk	1,200 00	1,200 00	400 00
Salary of Delinquent Tax Clerk	1,600 00	1,600 00	533 33
Salary of Assistant Delinquent Clerk	1,200 00	1,200 00	400 00
Salary of additional Clerks....	12,000 00	12,000 00	4,000 00
Telegraphing.. ..	50 00	50 00	16 66
Wood.....	250 00	250 00	83 33
Postage, current correspondence and forwarding assessment rolls.....	1,500 00	1,500 00	500 00
Furniture for office.....	300 00	.....	.....
Contingent expenses and repairs of rooms.....	250 00	150 00	50 00
Books and stationery	1,000 00	1,000 00	333 33
(Publishing), printing and binding abstract of land titles..	30,000 00	.....	.....

General Land Office.

	Year ending August 31,		December 31
	1877.	1878.	1878.
Salary of Commissioner.....	\$2,500 00	\$2,500 00	\$833 33
Salary of Chief Clerk.....	2,000 00	2,000 00	666 66
Salary of Spanish Clerk.....	1,800 00	1,800 00	600 00
Salary of Receiving Clerk.....	1,600 00	1,600 00	533 33
Salary of Examining Clerk....	1,500 00	1,500 00	500 00
Salary of Calculator.....	1,500 00	1,500 00	500 00
Salary of first Assistant Clerk..	1,500 00	1,500 00	500 00
Salary of two Abstract Clerks..	3,000 00	3,000 00	.....
Salary of two Filing Clerks....	2,500 00	2,500 00	833 33
Salary of two Corresponding Clerks	2,800 00	2,800 00	933 33
Salary of principal Patent Clerk	1,400 00	1,400 00	466 66
Salary of fifteen Assistant Clerks	15,750 00	15,750 00	5,250 00
Salary of Chief Draftsman....	1,800 00	1,800 00	600 00
Salary of Compiling and Ab- stract Draftsman	1,500 00	1,500 00	.....
Salary of four Compiling Draftsmen	6,000 00	6,000 00	2,000 00
Salary of ten Assistant Drafts- men	12,000 00	12,000 00	4,000 00
Salary of one night watchman.	500 00	500 00	166 66
Salary of one porter.....	400 00	400 00	133 33
Stationery, books and furniture	3,000 00	3,000 00	1,000 00
Postage	500 00	500 00	166 66
Wood	250 00	250 00	83 33
Contingent expenses	150 00	150 00	50 00
For building fence around the Land Office	350 00	.....	.....
For extending file room.....	500 00	.....	.....

Lunatic Asylum.

Salary of Superintendent.....	\$2,000 00	\$2,000 00	\$666 66
Salary of Assistant Superinten- dent	1,200 00	1,200 00	400 00
Salary of Steward.....	1,200 00	1,200 00	400 00
Salary of Matron.....	500 00	500 00	166 66
Salary of ten male wards, \$25 per month	3,000 00	3,000 00	1,000 00
Salary of eight female wards, \$25 per month.....	2,400 00	2,400 00	800 00
Salary of four seamstresses, \$20 per month	960 00	960 00	320 00
Salary of five laundresses, \$20 per month	1,200 00	1,200 00	400 00
Salary of one night watchman.	480 00	480 00	160 00
Salary of one day watchman...	300 00	300 00	100 00
Salary of one gardener.....	360 00	360 00	120 00
Salary of two assistant garden- ers, \$15 per month.....	360 00	360 00	120 00
Salary of one scavenger.....	360 00	360 00	120 00
Salary of one chief cook.....	360 00	360 00	120 00

	Year ending August 31, 1877.	1878.	December 31, 1878.
Salary of one assistant cook...	\$300 00	\$300 00	\$100 00
Salary of one cook for officers, private patients and sick..	300 00	300 00	100 00
Salary of one carpenter.....	480 00	480 00	160 00
Purchase of medical stores, etc.	500 00	500 00	166 66
Purchase of clothing, dry goods	4,000 00	4,000 00	1,333 33
Purchase of bedding.....	200 00	200 00	66 66
Purchase of groceries, provisions and wood	20,000 00	20,000 00	6,666 66
Repairs of buildings.....	500 00	500 00	166 66
Miscellaneous	950 00	950 00	316 66
For transportation of indigent lunatics from the State Asylum to their homes...	2,000 00	2,000 00	666 66
Blind Asylum.			
Salary of Superintendent.....	\$2,000 00	\$2,000 00	\$666 66
Salary of principal teacher.....	720 00	720 00	240 00
Salary of assistant teacher.....	500 00	500 00	166 66
Salary of second assistant teacher	420 00	420 00	140 00
Salary of third assistant teacher	240 00	240 00	80 00
Salary of music teacher.....	600 00	600 00	200 00
Salary of matron.....	480 00	480 00	160 00
Groceries, provisions, and mis- cellaneous	12,200 00	12,200 00	4,100 00
Oculist	900 00	900 00	300 00
Cook and assistant.....	360 00	360 00	120 00
Seamstress	300 00	300 00	100 00
Washer and ironer and assistants	360 00	360 00	120 00
To purchase one piano, two sew- ing machines, books, and prepare for telegraphing..	1,000 00	.....	.....
Deaf and Dumb Asylum.			
Salary of Superintendent.....	\$2,000 00	\$2,000 00	\$666 66
Salary of principal teacher....	1,200 00	1,200 00	400 00
Salary of second teacher.....	800 00	800 00	266 66
Salary of third teacher.....	480 00	480 00	160 00
Salary of fourth teacher.....	420 00	420 00	140 00
Salary of instructor in printing and expert employed by Printing Board	1,000 00	1,000 00	333 33
Salary of matron.....	480 00	480 00	160 00
Salary of assistant matron, or seamstress	360 00	360 00	120 00
Salary of gardener.....	360 00	360 00	120 00
Salary of driver and laborer...	240 00	240 00	80 00
Salary of washer and ironer...	240 00	240 00	80 00
Salary of assistant washer and ironer	216 00	216 00	72 00
Salary of two cooks.....	456 00	456 00	152 00
Groceries, provisions and mis- cellaneous	9,420 00	9,420 00	3,140 00

	Year ending August 31, 1877.		December 31, 1878.
New building and improvements	\$1,000 00	\$8,000 00	.....
For printing material.....	500 00	.....	.....

Public Free Schools.

The entire available school fund, annually derived from all sources, including the poll tax and one-fourth of the general revenue, is hereby set aside annually for the support of the public free schools of this State for the years 1877, 1878, and a proportionate part thereof to the 31st day of December, 1878.

Penitentiary.

For conveying prisoners.....	\$30,000 00	\$30,000 00	\$10,000 00
For building eastern branch Penitentiary	40,000 00	120,000 00	.....

Quarantine.

For pay of health officers under the quarantine laws on the Gulf coast of Texas.....	\$12,000 00	\$12,000 00	\$4,000 00
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Pensions.

For payment of old pensions...	\$1,800 00	\$1,800 00	\$600 00
For payment of pensions under present laws	20,000 00	20,000 00	6,666 66

Adjutant-General's Office.

Salary of Adjutant-General....	\$2,500 00	\$2,500 00	\$833 33
Salary of Chief Clerk.....	1,800 00	1,800 00	600 00
Salary of Clerk.....	1,200 00	1,200 00	400 00
Stationery, postage and telegraphing	450 00	450 00	150 00
Wood and porter hire.....	350 00	350 00	116 66
Contingent expenses for repairing arms, and removing arms and ammunition....	300 00	300 00	100 00
Storage on arms	600 00	600 00	200 00
Protection of the frontier....	150,000 00	150,000 00	50,000 00

Attorney-General's Office.

Salary of Attorney-General ...	\$2,000 00	\$2,000 00	\$666 66
Salary and traveling expenses of Assistant Attorney-General.....	3,000 00	3,000 00	1,000 00
Salary of Clerks	3,000 00	3,000 00	1,000 00
Stationery	150 00	150 00	50 00
Postage	150 00	150 00	50 00
Wood and lights	100 00	100 00	33 33
Fees in felony cases.....	1,000 00	1,000 00	333 33
Contingent expenses	300 00	300 00	100 00

Judiciary.

Salaries three Judges Supreme Court	\$10,650 00	\$10,650 00	\$3,550 00
Pay of Sheriffs' attendance ...	1,000 00	1,000 00	333 33

(1086)

	Year ending August 31, 1877. 1878.		December 31, 1878.
Books and stationery, Supreme Court	\$800 00	\$800 00	\$266 66
Postage and contingent expenses	800 00	800 00	266 66
Porter hire	480 00	480 00	160 00
Costs to be paid Sheriffs' clerks an(d) Attorneys in District and County Courts	50,000 00	50,000 00	16,666 66
Publishing Supreme Court Reports	5,000 00	5,000 00	1,666 66
Fees of Committing Magistrates, Sheriffs and Constables in committing courts	35,000 00	35,000 00	11,666 66
Publishing Court of Appeals Reports	5,000 00	5,000 00	1,666 66
Librarians of Supreme Court and Court of Appeals....	900 00	900 00	300 00
Fuel and lights for Supreme Court	250 00	250 00	83 33
Fuel and lights for Court of Appeals	250 00	250 00	83 33
For repairing Supreme Court building, etc	750 00	.....	.....
Salaries for three Appellate Judges	10,650 00	10,650 00	3,500 00
Pay of Sheriffs' attendance on Court of Appeals.....	1,000 00	1,000 00	3,333 33
Clerks' fees in criminal cases, Court of Appeals.....	2,000 00	2,000 00	666 66
Books and stationery and furniture, Court of Appeals..	1,500 00	500 00	300 00
Porter hire, Court of Appeals.	480 00	480 00	160 00
Salaries of twenty-seven District Judges	67,500 00	67,500 00	22,500 00
Salary of Judge of Criminal District court of Galveston and Harris counties	3,500 00	3,500 00	1,000 00
Salaries of District Attorney in First, Twelfth, Seventeenth, Twentieth, Twenty-third, and Twenty-sixth Judicial Districts	3,000 00	3,000 00	1,000 00
Salaries of District Attorney of the Criminal District Court for the counties of Galveston and Harris	500 00	500 00	166 66
For salaries of five Commissioners to digest the laws of the State, or so much thereof as may be necessary....	12,500 00	12,500 00	.....
Interest.			
For the annual interest on debt (1087)	\$390,000 00	\$390,000 00	\$130,000 00

Sinking Fund.

	Year ending August 31, 1877.		December 31, 1878.
For the annual sinking fund on debt	\$100,000 00	\$100,000 00	\$33,333 33
Public Buildings and Grounds.			
Salary of Superintendent	\$1,200 00	\$1,200 00	\$400 00
Plants and trees	200 00	200 00	66 66
Binding books of State Li- brary	300 00	150 00	50 00
For labor	500 00	500 00	166 66
For providing the State Capi- tol buildings and Capitol grounds with water, water works fixtures, etc., for the year 1877	3,600 00	.....	.....
Department of Insurance, Statistics and History.			
Salary of Commissioner	\$2,000 00	\$2,000 00	\$666 66
Salary of Clerk	1,200 00	1,200 00	400 00
Postage, printing, wood and lights	500 00	500 00	166 66

Sec. 2. That this act shall take effect and be in force from and after its passage.

Sec. 3. That the near approach of the close of the session and the accumulation of important bills, create an imperative public necessity for the suspension of the rules in order that this bill may be immediately passed.

NOTE.—The above bill was not approved by the Governor, nor was the same returned to the house in which it originated with his objections thereto, but was filed by the Governor in the office of secretary of State on the 21st day of August, 1876, at 11 o'clock and 10 minutes, a. m., being before the Legislature adjourned, and becomes a law without the approval of the Governor.

A. W. DEBERRY, Secretary of State.

CHAPTER CXLVIII.—An Act to be entitled "An Act to prevent the forgery of titles to lands."

Section 1. Be it enacted by the Legislature of the State of Texas, That in any county in this State wherein the land records or records of titles to land have been or may hereafter be burned or otherwise destroyed, it shall not be lawful for the Clerk of the County Court to permit any person who files a deed for record to remove said deed from the office of said Clerk for the period of twelve months after the same is filed for record; provided, this act shall not apply to deeds executed, or purporting to be executed, subsequent to the destruction of said land records.

Sec. 2. Any clerk violating the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction therefor, before any court of competent jurisdiction, shall be punished by a fine of not less than one hundred nor more than one thousand dollars; and in addition thereto may, in the discretion of the jury, be imprisoned in the county jail for any period of time not to exceed one year.

Sec. 3. Whereas, there are many persons engaged in forging land titles in different counties in the State in which court-houses have been

burned, and thereby many citizens may lose their land through such forgeries, a public necessity and emergency exists for immediate legislation to prevent such evils; therefore, it is hereby enacted that this act take effect and be in force from and after its passage.

Approved August 21, 1876.

Takes effect from its passage.

CHAPTER CXLIX.—An Act to authorize the levy and collection of a special tax in Blanco, Smith, Tarrant, Erath, Denton, Parker, Lampasas, Camp, Sabine, Cameron, Brown, Delta, Nacogdoches, Rockwall, Limestone, Gregg, Franklin, Madison, Lee, Navarro and Angelina counties for the years 1876, 1877 and 1878, to erect a court-house and jail in each, and such other counties as may find it necessary for the construction of court-houses and jails.

Section 1. Be it enacted by the Legislature of the State of Texas, That the County Commissioners' Courts of Blanco, Smith, Tarrant, Erath, Denton, Parker, Lampasas, Camp, Sabine, Cameron, Brown, Delta, Nacogdoches, Rockwall, Limestone, Gregg, Franklin, Madison, Lee, Navarro and Angelina counties, and such other counties where it may become necessary to construct court-houses and jails, be and they are hereby authorized and empowered to levy and collect an annual ad valorem tax of fifty cents on the one hundred dollars worth of property in said counties for the years 1876, 1877 and 1878, to raise a fund to erect a court-house and jail in each of said counties.

Sec. 2. That an imperative public necessity and emergency exist for the erection of said buildings in said counties, and the immediate passage of this act; therefore, this act shall take effect and be in force from and after its passage.

Approved August 21, 1876.

Takes effect ninety days after adjournment.

CHAPTER CL.—An Act to encourage irrigation and navigation.

Section 1. Be it enacted by the Legislature of the State of Texas, That any person, firm, corporation or company who shall construct a canal or ditch for navigation or irrigation, in accordance with the provisions of this act, shall receive from the State a grant of land as herein provided.

Sec. 2. For canals or ditches of the first class, eight sections of land to the mile; for canals or ditches of the second class, six sections to the mile; for canals or ditches of the third class, four sections to the mile; for canals or ditches of the fourth class, two sections to the mile; provided, canals for navigation having a width of forty (40) feet and a permanent depth of water of four feet shall receive sixteen (16) sections of land to the mile.

Sec. 3. Canals and ditches shall be classified as follows: A canal or ditch carrying a stream of water of a uniform width of thirty feet and uniform depth of five feet shall be deemed of the first class. A canal or ditch carrying a stream of water of a uniform width of fifteen feet and of a uniform depth of four feet shall be deemed of the second class. A canal or ditch carrying a stream of water of a uniform width of nine feet and of a uniform depth of three feet shall be deemed of the third class. A canal or ditch not complying with the requirements of a third class canal or ditch, but carrying a stream of water of a uniform width of not less than six feet, and of a uniform depth of not less than

two and a half feet, shall be deemed of the fourth class. All canals or ditches of whatever class, must be at least two miles long and have a permanent and continuous stream of water flowing therein at a rate sufficiently fast for all practical purposes.

Sec. 4. It shall be the duty of the Governor to appoint an Inspector of Canals and Ditches, who shall perform the duties herein assigned to him and shall receive therefor a compensation at the rate of twenty-five dollars per mile for every canal or ditch inspected by him, to be paid in advance by the person, firm, corporation or company requiring his services; and the Inspector shall not be permitted to receive a contingent remuneration, or one in any way dependent on the issuance or sale of the certificates granted under this act.

Sec. 5. Whenever any person, firm, corporation or company shall have constructed in the manner required by this act, a section of two miles or more of any canal or ditch, and the water is actually flowing in the same and ready for use, report shall be made to the Governor, setting out the facts, verified by affidavit, and applying for examination of the work, whereupon the Governor shall direct the Inspector of Canals and Ditches to examine and classify the same, and make a report under oath, showing the class to which the canal or ditch belongs, the dimensions of the same, the amount of water flowing therein, the length of the work completed and in good order, and the location thereof; and if the Governor shall be satisfied that the work has been done in compliance with this act, and that the person, firm or corporation intend in good faith to carry out the provisions of this act, and that the said person, firm or corporation have the ability and do intend to keep said canal or ditch in good repair and efficiency for navigation or irrigation for the period of ten years after it is fully completed, he shall certify the same to the Commissioner of the General Land Office.

Sec. 6. Upon the presentation of the certificate of the Governor as provided for in the preceding section, it shall be the duty of the Commissioner of the General Land Office to issue to the person, firm or corporation or company entitled to the same, the number of land certificates for sections of six hundred and forty acres each to which the said person, firm or corporation or company may be entitled under the provisions of the second section of this act; provided, that in no case shall any certificates be issued by the Commissioner of the General Land Office until the person, firm, company or corporation whose canal or ditch shall have been certified as provided in the preceding section, shall execute and file with the Commissioner of the General Land Office a bond with two or more solvent sureties, whose solvency shall appear from the Assessor's rolls in the office of the Comptroller, in a sum equal to one hundred and twenty-five dollars for each certificate for the canal or ditch, payable to the Governor of the State of Texas and his successors in office, conditioned that the said person, firm, company or corporation shall keep and maintain said canal or ditch in good and efficient repair for navigation or irrigation, as the case may be, for the full period of ten years from the time of filing the bond, and the Commissioner of the General Land Office shall furnish the form of the bond required in this section.

Sec. 7. The certificates issued under this act shall be issued and located subject to and under the same conditions as those issued to railroads under the laws of this State.

Sec. 8. All corporations for irrigation or navigation, are hereby

granted the right of way, not to exceed one hundred feet in width, over all public, university, school and asylum lands, with use of necessary rocks, gravel and timber for construction purposes, and may obtain the right of way over private lands by contract, or the damages for any private property appropriated by such corporation shall be assessed and paid for as is provided for in cases of railroads.

Sec. 9. The Legislature shall, at such times as it may deem proper, establish the rates of freight and passage over any canal for navigation, and fix the rates of water supply for towns and cities; provided, that until such rates are established by law, said companies may charge such tolls for freights and vessels through canals, and such rates for water supply as may be reasonable and proper.

Sec. 10. Any such canal company shall have the free use of the water of the rivers and streams of this State; but in no case shall any company flow lands to the detriment of owners without their consent, or on due payment to the party aggrieved.

Sec. 11. Said companies, corporations, firms or persons, shall have the right to cross all roads and highways necessary in the construction of their work, and shall, at such crossings, construct and maintain necessary bridges for the accommodation of the public.

Sec. 12. The State shall not be liable under this act for any deficiency in the public domain.

Sec. 13. Whenever any canal or ditch for irrigation shall be constructed under the provisions of this act, all persons owning lands adjacent to and irrigable from said canal or ditch, shall have the right to use the water of said canal or ditch under such regulations as may be prescribed by law.

Sec. 14. Any canal or ditch which shall be constructed where there are already sufficient canals or ditches for the purposes of irrigation or navigation, shall not be entitled to the land grant herein provided for; and no certificate shall be issued for any canal or ditch until the same has been carried to a point at which the water can be used for irrigation or navigation.

Sec. 15. "An act to encourage the construction of canals and ditches for navigation and irrigation," approved March 10, 1875, shall be and is hereby repealed.

Sec. 16. Whereas, there is an imperative public necessity existing for a change in the law upon the subject of irrigation and navigation, and for the operation of the provisions of this act, thus creating an emergency; therefore, that this act take effect and be in force from and after its passage.

Approved August 21, 1876.

Takes effect ninety days after adjournment.

CHAPTER CLI.—An Act to enforce the collection of delinquent taxes on lands assessed since January, 1870.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Comptroller of Public Accounts be and he is hereby required to prepare and forward to the County Commissioners' Court of the several counties of this State, within six months from the passage of this act, a full and complete abstract of the yearly delinquent list of taxes upon lands in their respective counties, assessed since the first day of January (1870)

ary, 1870, showing upon what lands such taxes are due, the year the same was assessed, the amount due the State for each year, and the amount due the county for each year; and he shall describe each tract in the same manner as it is described on the tax rolls by the party assessing the same, and shall also state by and for whom rendered, and shall certify officially to the facts set forth in said list.

Sec. 2. Upon receipt of said list, the County Commissioners' Court shall carefully examine the same, and see that the taxes, both general and special, due said county, are accurately stated, and correct any inaccuracies or omissions that may have been made therein, and shall attach to the same a certificate that it is correct so far as it relates to the county taxes, and shall thereupon deliver the same to the Collector of Taxes for such county, who shall at once post a copy of said delinquent list at the court-house door and at least two other public places in the county, in different Justice's precincts, requiring the owners of said land to come forward and pay said taxes.

Sec. 3. All lands and town lots rendered in one county and situated in another county shall be made out by the Comptroller on a separate list and forward to the Commissioners' Court of the county where such lands are situated, and if any of such lands are situated in any unorganized county, then the Comptroller shall forward a list of such lands to the Commissioners' Court of the county to which such unorganized county is attached for judicial purposes.

Sec. 4. At the expiration of sixty days after posting said notices, if said taxes, or any part of them, are unpaid, or satisfactory evidence furnish(ed) the Collector of Taxes that the taxes have been paid, the Collector of Taxes shall, by virtue of his roll, seize, levy upon and sell so much property belonging to the person, firm, company or corporation, whether residents or non-residents, against whom the taxes were assessed, and due and unpaid, as may be sufficient to pay his, her or their taxes and penalties due, together with all costs accruing thereon; provided, however, that if such person, firm, company or corporation, his, her or their agent or attorney, shall point out to the Collector of Taxes sufficient property belonging to the party assessed in said county to pay said taxes before the expiration of the sixty days, as above provided, then the Collector of Taxes shall levy upon and sell the property so pointed out; and in case the property seized and levied on is personal property, the Collector shall proceed to take into his possession so much thereof as will pay the taxes assessed and due, together with all penalties due and costs accruing thereon.

Sec. 5. Every Collector of Taxes for personal property shall give notice of the time and place of the sale of the property so levied on at least ten days previous to the day of sale, by advertisement in writing, to be posted up, one at the court-house door of his county, and one in two other public places in the county; and such sale shall take place at the court-house door of the county in which the property is situated, by public auction; and if the property so levied upon prove to be insufficient to satisfy the taxes and penalties due and costs accruing thereon, the Collector shall seize and levy upon and sell so much other taxable property belonging to the person, firm, company or corporation as will be sufficient to satisfy such tax, penalties and costs, in the manner prescribed in the preceding part of this section; provided, should the property sold bring more than the taxes, penalties and costs, the remainder shall be paid to the owner by the Collector, or deposited by

him in the County Treasurer's office, subject to the order of the party or parties owning said property.

Sec. 6. If the taxes upon any land or town lots in this State are not paid before the expiration of the sixty days, provided for in section four of this act, the Collector of Taxes shall seize, levy upon and sell such land or town lots, whether belonging to residents or non-residents, for the payment of all taxes and penalties due thereon, together with all costs which have or may accrue thereon; and he shall advertise the same for sale in some newspaper published in the county for three successive weeks, if there be one, and if there be no newspaper in the county, then by posting said advertisement for thirty days at the courthouse door, and three other public places in the county where the land or lots are situated; giving in said advertisement such description as is given to the same on the certified statements furnished him by the Commissioners' Court, as furnished the court by the Comptroller of Public Accounts; giving the name of the owner, if known, and if unknown, say "unknown," together with time, place and terms of said sale; said sale to be for cash, to the highest bidder at public outcry, at the courthouse door; which sales shall be between legal hours, on the first Tuesday of the month; provided, if the sale of all the lands and town lots advertised is not made in one day, the sale shall be continued from day to day. The Collector of Taxes shall make proclamation at the close of each day, of the continuance of the sale the following day, and as far as practicable, all the lands and town lots seized shall be advertised in one notice; provided, that the owner of such lands or his agent, shall, upon the payment of all the delinquent taxes due upon said land since January 1st, A. D. 1873, prior to the day upon which said land is advertised to be sold, he shall receive a full and complete acquittance from all delinquent taxes due upon such land.

Sec. 7. The Collector of Taxes, in making sales for taxes due upon real estate, shall sell at auction at the time and place appointed so much of said real estate as may be necessary to pay the taxes and penalties due, and all costs accruing thereon; and shall offer said real estate to the bidder who will pay the taxes and penalties due, and costs of sale and execution of deed for the least amount of said real estate; which bidder shall be considered the highest bidder. Should a less amount of said real estate than the whole tract or parcel of said real estate levied upon be sold for the taxes and penalties due, and all costs of sale and execution of deed, the Collector shall, in making his deed to purchaser, begin at some corner of said tract or parcel of land, or town lot, and designate the same in a square as near as practicable.

Sec. 8. The Collector of Taxes shall execute and deliver to the purchaser, upon the payment of the amount for which the estate was sold, and costs and penalties, a deed for the real estate sold; which deed shall vest a good and absolute fee in said land or lots to the purchaser, if not redeemed in two years as herein provided for; which deed shall state the cause of sale, the amount sold, the price for which the real estate was sold, the name of the person, firm, company or corporation against whom the taxes were assessed, provided the name is known, and if unknown, say "unknown;" and when real estate has been sold, he shall convey subject to the right of redemption provided for in the following section, all the right and interest which the former owner had therein at the time when the assessment was made or when the sale was made.

Sec. 9. The owner of real estate sold for the payment of taxes, or

his heirs or assigns, or legal representative, may, within two years from the date of sale, redeem the estate sold by paying or tendering to the purchaser, his heirs or legal representative, double the amount of money paid for the land or lots, together with all the subsequent taxes that the purchaser has paid on the same from the day of purchase to the day of redemption. The Collector of Taxes shall give in said deed such description of the real estate as is given on the certified roll or list as shall be furnished him as is required by the provisions of this act, and such other description as may be necessary to the better identification of the same.

Sec. 10. The provisions of this act in reference to the seizure and sale of real and personal property, for taxes, penalties and costs due thereon, shall apply as well to Collectors of Taxes for towns and cities, as for Collectors of Taxes for counties, and they shall be governed in selling real and personal property by the same rules and regulations in all respects as to time, place, manner and terms, and making deeds, as are provided for Collectors of Taxes for counties.

Sec. 11. Should the Collector of Taxes for any city or town fail to make sale of any real estate for want of a purchaser, he shall bid the same off to the city or town for the taxes, and penalties and costs thereon, and make due return thereof to the City Council or Board of Mayor and Aldermen, and said Collector shall on final settlement of his accounts with the municipal authorities of such city or town, be entitled to a credit for the amount of the taxes due the city or town for the amount for which the land or lots were bid off to the city or town; provided, that the rolls of delinquent tax-payers in any city or town when duly certified to by the Recorder or Clerk of said city or town, and placed in the hands of said Tax Collectors, shall be authority to said Tax Collectors to seize and sell the property, as provided in this act.

Sec. 12. Should the Collector of Taxes fail to make sale of any real estate for want of a purchaser, he shall bid the same off to the State for the taxes and penalties due and all costs accruing thereon, and make due return thereof, under such forms and directions as the Comptroller may furnish and direct, and he shall on final settlement of his accounts with the Commissioners' Court and the Comptroller of Public Accounts, be entitled to a credit for the amount of taxes due the State and county respectively, for which the land or lots were bid off to the State.

Sec. 13. The Collector of Taxes shall make duplicate lists of all real estate sold for taxes, and file one copy in the County Clerk's office for record, and forward a certified copy to the Comptroller of Public Accounts.

Sec. 14. All lands and town lots sold to the State, or to city or town, shall be subject to redemption in the manner and under the same regulations as land sold to individuals, and in case of Collectors of Taxes for cities or towns, said Collector shall make duplicate lists of all real estate sold by him for taxes and file one copy thereof with the Clerk or Recorder of said city or town.

Sec. 15. When lands upon which there are back taxes due were assessed at the Comptroller's office upon the basis for value of an average of the value of all lands in the county, it shall be lawful for the party paying such back taxes, to pay at the rate of the assessed value for the year 1876.

Sec. 16. No delinquent tax-payer shall have the right to plead in any court or in any manner rely upon any statute of limitation by way

of defense against the payment of any taxes due from him or her, either to the State or to any city or county.

Sec. 17. That all laws and parts of laws in conflict with the provisions of this act, are hereby repealed.

Sec. 18. That an imperative public necessity exists for the passage of this act immediately, there being no efficient law for the collection of delinquent taxes.

Approved August 19, 1876.

Takes effect ninety days after adjournment.

CHAPTER CLII.—An Act regulating the duties of Tax Collectors in reference to the seizure and sale of property of delinquent tax-payers, and to define the further duties, powers, qualifications and liabilities of Collectors of Taxes, and to regulate their compensation.

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be elected by the qualified electors of each county within this State (except such as are provided for, or excepted in the Constitution), at the same time and under the same law regulating the election of State and County officers, a Collector of Taxes, who shall hold his office for two years, and until his successor is elected and qualified; and should the office of Collector of Taxes, from any cause, become vacant before the expiration of said term, it shall be the duty of the Commissioners' Court in the county in which such vacancy shall occur, to appoint a Collector of Taxes, who shall be qualified in the same manner and subject to a like bond as the Collector of Taxes elected, and the Collector of Taxes so appointed shall hold his office for and during the unexpired term of his predecessor, and until his successor shall have been qualified; and the Collector of Taxes so appointed shall have all the rights and perform all the duties required by law of the Collector of Taxes elected.

Sec. 2. In each county in this State, where the Sheriff performs the duties of Collector of Taxes, he shall have and exercise all the rights, powers and privileges, and perform all the duties of Collectors of Taxes elected, as are granted by the provisions of this act; and shall also give a like bond as is required by this act of Collectors of Taxes elected, and shall be subject to all duties, restrictions and requirements imposed by the provisions of this act upon Collectors of Taxes elected.

Sec. 3. That every Collector of Taxes, within twenty days after he shall have received notice of his election or appointment, and before entering upon the duties of his office, shall give a bond, based upon unencumbered real estate of the sureties, subject to execution, payable to the Governor and his successors in office, in a sum which shall be equal to the whole amount of the State tax of the county, as shown by the last preceding assessment, with at least three good and sufficient sureties, to be approved by the Commissioners' Court of his county, which shall be further subject to the approval of the Comptroller, and shall take and subscribe the oath prescribed by the Constitution, which, together with said bond shall be recorded in the office of the Clerk of the County Court of said county, and be forwarded by the County Judge of the county to the Comptroller, to be deposited in his office; the condition of said bond shall be deemed to extend to the faithful performance of the duties of his office as Collector of Taxes for and during the full term for which he was elected or appointed, and shall not become void upon

the first recovery, but suit may be maintained thereon until the whole amount thereof be recovered; such Collector of Taxes may be required to furnish a new bond and additional other sureties, whenever, in the opinion of the Commissioners' Court or Comptroller of Public Accounts, it may be advisable. Should any Collector of Taxes fail to give a new bond and additional security when required, he shall be suspended and dismissed from office by the Commissioners' Court of his county; provided, that nothing herein contained shall be so construed as to require the Collectors of Taxes who were elected in February last, and who have given satisfactory bonds, to give additional bonds, unless, in the opinion of the Commissioners' Court, or of the Comptroller of Public Accounts, said bonds are insufficient.

Sec. 4. That Collectors of Taxes shall give a like bond, with like conditions to the County Judge of their respective counties, and their successors in office, in a sum not less than the whole amount of the county tax of the county, as shown by the last preceding assessment, with at least three good and sufficient sureties, to be approved by the Commissioners' Court of his county, which bond shall be recorded and deposited in the office of the Clerk of the County Court. A new bond and additional security may be required, and the Collector of Taxes may be removed from office in the manner prescribed in the third section of this act.

Sec. 5. When the Collector of Taxes of any county shall have received the assessment rolls or books showing the amount of taxes due on said rolls or books, said rolls or books shall be full and sufficient authority for the County Collector of Taxes to receive and collect the taxes therein levied.

Sec. 6. The Collector of Taxes shall be the receiver and collector of all taxes assessed upon the tax list in his county, whether assessed for the State or county, school, poor-house, or other purpose, and he shall proceed to collect the same according to law, and place the same, when collected, to the proper fund, and pay the same over to the proper authorities, as hereinafter provided.

Sec. 7. The Collector of Taxes shall begin the collection of the taxes of their respective counties annually on the first days of October, or so soon thereafter as he may be able to obtain the proper assessment rolls, books or data upon which to proceed with the business; and he shall post up notices, not less than three, at public places, in each voting or magistrate's precinct in his county, at least twenty days previous to the day said tax-payers are required to meet him for the purpose of paying their taxes, stating in said notice the times and places the same are required to be paid; and it shall be the duty of said Collector or his deputy to attend at such times and places for the purposes aforesaid, and shall remain at each place at least two days; provided, that if the Collector shall from any cause fail to meet the tax-payers at the time and place as provided for in the first notice, he shall, in like manner, give a second notice.

Sec. 8. The Collector of Taxes shall keep his office at the county seat of his county, and it shall be the duty of every person who has failed to attend and pay his taxes at the times and places in his precinct, named by the Collector, as provided in the preceding section, to call at the office of the Collector and pay the same between the first day of July, and the last day of February of each year.

Sec. 9. Each Collector of Taxes may appoint one or more deputies

to assist him in the collection of taxes, and may take such bond and security from the person so appointed as he deems necessary for his indemnity, and the Collectors, in all cases, shall be liable and accountable for his proceedings and misconduct in office.

Sec. 10. The Collector of Taxes, or his deputy, whenever any tax is paid, shall give to the person paying the same a receipt therefor, specifying the amount of State ad valorem tax, the amount of State poll tax, the amount of county ad valorem tax, the amount of county poll tax, and the year or years for which such tax was levied; said receipt shall also show the number of acres of land in each separate tract, number, abstract and name of original grantee; the said receipt shall have a duplicate stub showing the name of the person, the date, the amount of each separate tax and the date of payment. The Collector of Taxes shall provide himself with a seal, on which shall be inscribed a star with five points, surrounded by the words, "Collector of Taxes ——— County," the blank to be filled with the name of the county, and shall impress said seal to each receipt given by him for taxes collected on real estate, and said receipt having the seal attached shall be admissible to record in the county in which the property is situated, in same manner as deeds duly authenticated, and when so recorded, shall be full and complete notice to all persons of the payment of said tax.

Sec. 11. The Collector of Taxes shall make a report, under oath, to the Comptroller of all taxes collected by him for the State, every three months. The first report shall include the months of October, November, December; the second shall include the months of January, February, March; the third shall include the months of April, May and June; the fourth report shall include the months of July, August and September of each year; and he shall also make a like report to the Commissioners' Court of all taxes collected for the county.

Sec. 12. The Collector of Taxes shall file his reports, together with the tax receipt stubs, in the office of the County Clerk of his county, for examination. The Clerk shall have three days (Sundays excepted) for the examination of the same. The reports and stubs must agree in every particular, as regards dates, names and amounts. The Clerk shall, after the examination, certify to the reports as to their correctness or incorrectness, as the case may be, and, if incorrect, state where the incorrectness appears in said reports; he shall then forward the report prepared for the Comptroller to that officer, and shall file the tax receipt stubs in his office for reference and safe keeping.

Sec. 13. The Collector of Taxes shall make out, on and after the first day of June of each year, triplicate lists of delinquent or insolvent taxpayers, the caption of which shall be, the "List of Delinquent or Insolvent Tax-payers." In this list he shall give the name of the person, firm, company or corporation from whom the taxes are due, together with the amount of the State and county taxes due, in separate columns, and he shall post one copy of these delinquent or insolvent lists at the court-house door, and one copy at two other public places in his county. And the Collector of Taxes, upon the certificate of the Commissioners' Court that the persons appearing on the insolvent or delinquent list have no property out of which to make the taxes assessed against them, or that they have moved out of the county, and that no property can be found in the county belonging to such persons out of which to make the taxes due, shall be entitled to a credit on his final settlement of his accounts for the amounts due by the persons, firms,

companies or corporations, certified to by the Commissioners' Court, as above provided for; provided, he shall use all necessary diligence to collect the amounts due on the insolvent list, after it is allowed, and report and pay over to the proper officers all amounts collected on the same.

Sec. 14. If any person, firm, company or corporation shall fail or refuse to pay the taxes imposed upon him or them, or upon his, her or their property, by law, until the first day of March next succeeding the return of the assessment roll of the county to the Comptroller, the Collector of Taxes shall, by virtue of his tax roll, seize and levy upon and sell so much property belonging to such person, firm, company or corporation, whether residents or non-residents, as may be sufficient to pay his, her or their taxes, and penalties due, together with all costs accruing thereon; provided, however, that if such person, firm, company or corporation, his, her, or their agent or attorney, shall point out to the Collector of Taxes sufficient property belonging to the party assessed, in said county, to pay said taxes before the first day of March, of each year, then the Collector shall levy upon and sell the property so pointed out; and in case the property seized and levied on is personal property, the Collector shall proceed to take into his possession so much thereof as will pay the taxes assessed and due, together with all penalties due and costs accruing thereon.

Sec. 15. Every Collector of taxes for personal property shall give notice of the time and place of the sale of the property so levied on, at least ten days previous to the day of sale, by advertisement in writing, to be posted up, one at the court-house door of his county, and in two other public places in the county; and such sale shall take place at the court-house door of the county in which the assessment is made, by public auction; and if the property so levied upon prove to be insufficient to satisfy the taxes and penalties due, and costs accruing thereon, the Collector shall levy upon and sell so much other taxable property belonging to such person, firm, corporation or company, as will be sufficient to satisfy such tax, penalties and costs in the manner prescribed in the preceding part of this section; provided, should the property sold bring more than the taxes, penalties and costs, the remainder shall be paid to the former owner, by the Collector, or deposited by him in the County Treasurer's office, subject to the order of the party or parties owning said property.

Sec. 16. If the taxes upon any land or town lots in this State are not paid on or before the first day of March of each year, after the return of the tax rolls of the county to the Comptroller of Public Accounts, the Collector of Taxes shall seize such land, and sell the same, or so much thereof as may be necessary, whether belonging to residents or non-residents, for the payment of all taxes and penalties due thereon, together with all costs which have or may accrue thereon, and he shall advertise the same for sale in some newspaper published in the county, for three successive weeks, if there be one, and if there be no newspaper in the county, then by posting said advertisement for thirty days at the court-house door and three other public places in the county where the land or lots are situated; giving, in said advertisement, such description as is given to the same on the tax rolls in his hands; giving the name of the owner, if known, and if unknown, say "unknown," together with the time, place and terms of said sale; said sale to be for cash to the highest bidder, at public outcry at the court-house door; which sales shall be between legal hours, on the first Tuesday of the

month; provided, if the sale of all the lands and town lots advertised is not made in one day, the sale shall be continued from day to day. The Collector of Taxes shall make proclamation at the close of each day of the continuance of the sale the following day; and, as far as practicable, all the lands and town lots seized shall be advertised in one notice; provided further, that nothing in this act shall be so construed as to subject real estate set apart or used as a homestead to forced sale for taxes other than the taxes due on said homestead.

Sec. 17. The Collector of Taxes, in making sales for taxes due upon real estate, shall sell at auction, at the time and place appointed, so much of said real estate as may be necessary to pay the taxes and penalties due, and all costs accruing thereon; and shall offer said real estate to the bidder who will pay the taxes and penalties due, and costs of sale and execution of deed, for the least amount of said real estate, who shall be deemed the highest bidder. Should a less amount of said real estate than the whole tract or parcel of said real estate levied upon be sold for the taxes and penalties due, and all costs of sale and execution of deed, the Collector shall, in making his deed to purchaser, begin at some corner of said tract or parcel of land, or town lot, and designate the same in a square as near as practicable.

Sec. 18. The Collector of Taxes shall execute and deliver to the purchaser, upon the payment of the amount for which the estate was sold and costs and penalties, a deed for the real estate sold, which deed shall vest a good and absolute fee in said land to the purchaser, if not redeemed in two years, as herein provided, which deed shall state the cause of sale, the amount sold, the price for which the real estate was sold, the name of the person, firm, company or corporation on whom the demand for the taxes was made; provided, the name is known; and if unknown, say "unknown," and when real estate has been sold he shall convey, subject to the right of redemption provided for in the following section, all the right and interest which the former owner had therein at the time when the assessment was made; and when the Collector of Taxes shall have made sale of any real estate under this act, it shall be his duty to make return of said sale to the Commissioners' Court, stating in said return the land sold, the name of the owner, if known, and if unknown, state the fact, the time of the sale, the amount for which said sale was made, together with the name of the purchaser, which return shall be entered of record on the minute books of said court.

Sec. 19. The owner of real estate sold for the payment of taxes, or his heirs or assigns, or legal representatives, may, within two years from the date of sale, redeem the estate sold, by paying or tendering to the purchaser, his heirs or legal representatives, double the amount of money paid for the land, together with all subsequent taxes that the purchaser has paid on the same from the day of purchase to the day of redemption. The Collector of Taxes shall give in said deed such description of the land as is given on the tax rolls in his hands, and such other description as may be necessary to the better identification of the same.

Sec. 20. The provisions of this act in reference to the seizure and sale of real and personal property, for taxes, penalties and costs due thereon, shall apply as well to Collectors of Taxes for town and cities as for Collectors of Taxes for counties, and they shall be governed in selling real and personal property by the same rules and regulations in all respects as to time, place, manner and terms, and making deeds, as are provided for Collectors of Taxes for counties.

Sec. 21. Should the Collector of Taxes fail to make sale of any real estate for want of a purchaser, he shall bid the same off to the State for taxes and penalties due and costs accruing thereon, and make due return thereof, under such forms and directions as the Comptroller may furnish and direct, and he shall, on final settlement of his accounts with the Commissioners' Court and the Comptroller of Public Accounts, be entitled to a credit for the amount of taxes due the State and county for which the land or lots were bid off to the State for.

Sec. 22. The Collector of Taxes shall, whenever he may receive as much as five thousand dollars (\$5,000) or more belonging to the State, pay the same over to the State Treasurer in the manner as may be directed by the Comptroller of Public Accounts, reserving only his commissions on the same.

Sec. 23. The Collector of Taxes shall, whenever he may receive as much as five hundred dollars (\$500) or more belonging to his county, pay the same over to the County Treasurer of his county, reserving only his commissions on the same.

Sec. 24. The Collector of Taxes shall collect all occupation taxes due the State and county, and he shall make a quarterly report of the same, and one exact copy thereof, which shall state the amounts collected, from whom collected, and for what purpose, and for what time the said taxes were paid. The original shall be filed with the Clerk of the County Court, to be kept in his office for the inspection of the public. The County Clerk shall certify to the correctness of the copy, and that the original has been filed in his office; and the County Clerk shall forward without delay, to the Comptroller of Public Accounts the copy so certified to, for which the County Clerk shall be entitled to one dollar and fifty cents, to be paid by the Collector of Taxes.

Sec. 25. For every neglect, failure or refusal to comply with Section 24 of this act, the Collector of Taxes shall forfeit his commissions on the amount of occupation taxes collected by him during each quarter for which he neglects, fails or refuses to comply with Section 24 of this act; should any Collector of Taxes so neglect, refuse or fail to comply with the provisions of Section 24 of this act for two consecutive quarters, the Commissioners' Court, upon a complaint made to them by the Comptroller of Public Accounts, shall remove the said Collector of Taxes from office, unless said Collector of Taxes can render a satisfactory excuse for such neglect, refusal or failure, and he shall also be subject to prosecution on his official bond.

Sec. 26. The quarterly reports provided for in Section 24 of this act shall be as follows: The first report shall include the months of July, August and September, and shall be made out and reported as required above, on the first Monday in October of each year. The second report shall include the months of October, November and December, and shall be made out and reported on the first Monday in January of each year. The third report shall include the months of January, February and March, and shall be made out and reported on the first Monday in April of each year. The fourth report shall include the months of April, May and June of each year, and shall be made out and reported on the first Monday in July in each and every year.

Sec. 27. The Collector of Taxes shall also make out and forward to the Comptroller of Public Accounts a statement of all the occupation taxes collected by him during the year, which said annual report shall be made out and forwarded to the Comptroller of Public Accounts on

the first Monday in July of each year, and shall show from whom collected, when collected, the amount collected, and on what occupation collected, and for what time collected; and such other facts as the Comptroller may require. And for each failure, refusal or neglect to comply with the provisions of this section, the Comptroller shall deduct one hundred dollars from the commissions of the Collector of Taxes, so failing, refusing or neglecting to comply with the provisions of this section for each month he so fails, refuses or neglects to comply with the provisions of this section, and the Commissioners' Court shall upon complaint made to them, by the Comptroller, remove said Collector of Taxes from office, unless he produce satisfactory reasons for such failure.

Sec. 28. All moneys collected from occupations due the State shall be paid over to the State Treasurer by the Collector of Taxes, in the same manner and under the same restrictions and regulations as is required by section twenty-two of this act.

Sec. 29. All moneys collected from occupations due the county shall be paid over to the County Treasurer by the Collector of Taxes in the same manner and under the same restrictions and regulations as is required by section twenty-three of this act.

Sec. 30. The Collector of Taxes shall receive as compensation for his services, five per cent. on all amounts collected by him for the State, and three per cent. on all amounts collected by him for the county; provided, that in counties owing a subsidy to railroads, the Collector shall receive only one per cent. for collecting such railroad tax. And in cases where property is levied on and sold for taxes, he shall receive the same compensation as allowed by law to Sheriffs or Constables for making a levy and sale in similar cases. And he shall be allowed ten cents per mile, once a year, each way for visiting the Capital and making final settlement of his accounts with the Comptroller; the distance to be computed by the Comptroller from the county seat as the mileage of the members of the Legislature is computed.

Sec. 31. There being no law now in force clearly defining the duties and powers of Collectors of Taxes, it is hereby declared that there is an existing imperative public necessity and emergency for the immediate passage of this act, that the Collectors of Taxes may at once enter upon the discharge of their official duties; therefore, this act take effect and be in force, from and after its passage.

Sec. 32. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Approved August 21, 1876.

Takes effect from its passage.

CHAPTER CLIII.—An Act to define the duties, powers, qualifications and liabilities of Assessors of Taxes, and to regulate their compensation.

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be elected by the qualified electors of each county within this State, at the same time and under the same law regulating the elections of State and county officers, an Assessor of Taxes, who shall hold his office for two years, and until his successor is elected and qualified; and should the office of assessor of Taxes from any cause become vacant before the expiration of said term, it shall be the duty of the District Judge of the county in which such vacancy shall occur, to appoint

an Assessor of Taxes, who shall be qualified in the same manner, and subject to a like bond as the Assessor elected; and the Assessor so appointed shall hold his office for and during the unexpired term of his predecessor, and until his successor shall have been qualified; and the Assessor of Taxes, so appointed, shall have all the rights and perform all the duties required by law of the Assessor elected.

Sec. 2. That every Assessor of Taxes, within twenty days after he shall have received notice of his election or appointment, and before entering upon the duties of his office, shall execute a bond, payable to the Governor and his successors in office, in a sum which shall be equal to one-fourth the amount of the State tax of the county, as shown by the last preceding assessment, with at least three good and sufficient sureties, to be approved by the Commissioners' Court of his county, conditioned that he faithfully discharge all the duties of said office; provided, said bond shall not exceed ten thousand dollars (\$10,000); and shall take and subscribe the oath prescribed by the Constitution; which oath, together with said bond, shall be recorded in the office of the Clerk of the County Court of said county, and be forwarded by the County Judge of the county to the Comptroller to be deposited in his office; said bond shall be deemed to extend to the faithful performance of the duties of his office as Assessor of Taxes for and during the full term for which he was elected or appointed, and shall not become void upon the first recovery; but suit may be maintained thereon until the whole amount thereof be recovered; such Assessor of Taxes may be required to furnish a new bond, and other additional sureties, whenever, in the opinion of the Commissioners' Court, it may be advisable. Should any Assessor of Taxes fail to give a new bond and additional security when required, he shall be suspended and dismissed from office by the Commissioners' Court of his county; provided, that nothing herein contained shall be so construed as to require the Assessors of Taxes, who were elected in February last, and who have given satisfactory bonds, to give additional bond, unless, in the opinion of the Commissioners' Court, said bonds are insufficient.

Sec. 3. The Assessor of Taxes shall give a like bond, with like conditions, to the County Judge of their respective counties, and their successors in office, in a sum not less than one-fourth of the amount of the county tax of the county, as shown by the last preceding assessment, with at least three good and sufficient sureties, to be approved by the Commissioners' Court of his county; provided, said bond shall not exceed five thousand dollars, (\$5,000), which bond shall be recorded and deposited in the County Clerk's office of the county. A new bond and additional security may be required, and the Assessor of Taxes may be removed from office in the manner prescribed in the second section of this act.

Sec. 4. That the Assessors of Taxes in this State are hereby authorized and empowered to administer all oaths necessary to obtain a full, complete and correct assessment of all the taxable property situated in their respective counties.

Sec. 5. The Assessor of Taxes shall also require each person rendering a list of taxable property to him for taxation, under the assessment laws of this State, to subscribe to the following oath, or affirmation, which shall be written or printed at the bottom of each inventory, to-wit: "I, _____ (filling the blank with the name of the person subscribing), do solemnly swear, or affirm, that the above inventory rendered

by me contains a full, true and complete list of all taxable property owned or held by me in my own name (or for others, as the case may be, naming the person or firm for whom he rendered the list) in this county, and all personal property in this State, subject to taxation by the laws of this State, on the first day of January, A. D. 18— (filling the blank with the year), and that I have true answers made to all questions propounded to me, touching the same, so help me God." The owner, or agent, who is required under the laws of this State to render any property for taxation, may render the same in the county where the same is situated by listing the same and making oath thereto, as required in this act, before any officer authorized to administer oaths in this State, or any officer out of this State that is authorized by law to take acknowledgments of instruments for record in this State, and may forward the same to the Assessor of the county by mail, or otherwise, and the Assessor shall enter the said property on his tax rolls. If the Assessor is satisfied with the valuation as rendered in said list, he will so enter the same. If he is not satisfied with the valuation, he shall refer the same to the Board of Equalization of the county for their action, and shall immediately notify by mail, or otherwise, the person from whom he received said list, that he has referred said valuation to the Board of Equalization; provided, said Assessor shall not be required to notify said party unless said list is accompanied by a fee of twenty-five cents.

Sec. 6. That the Assessor of Taxes, for every failure or neglect to administer the oath or affirmation prescribed in section five of this act to each person rendering a list of taxable property to him, unless the person refuses to qualify, shall forfeit fifty dollars, to be deducted out of his commissions, upon full and satisfactory information furnished the County Judge; and for each and every failure or neglect to attest the oath subscribed to, as provided in section five of this act, shall forfeit the sum of fifty dollars, upon satisfactory information furnished the County Judge. The forfeitures imposed by this section shall be deducted from the Assessor's commissions on the assessment for county taxes.

Sec. 7. Each Assessor of Taxes may appoint one or more deputies to assist him in the assessment of taxes, and may require such bond and security from the person so appointed as he deems necessary for his indemnity, and the Assessor of Taxes shall, in all cases, be liable and accountable for the proceedings and misconduct of his deputies.

Sec. 8. The deputies appointed in accordance with the provisions of section seven of this act shall do and perform all the duties imposed and required by the provisions of this act, of Assessors of Taxes; and all acts of such deputies, done in conformity with law, shall be as binding and valid as if done by the Assessor of Taxes in person.

Sec. 9. That the Assessor of Taxes shall, between the first day of January and the first day of June of each year, proceed to take a list of taxable real and personal property in his county, and assess the value thereof in the manner following, to-wit: By calling upon the person, or by calling at the office, place of business, or the residence of the person, and listing the property required by this act, in his name, and shall require the person to make a statement under oath, as prescribed in section five of this act, of such property in the form prescribed in this act; provided, if any property is listed or assessed on or after the first day of June, the same shall be as legal and binding as if assessed

before that time; but nothing herein contained shall be so construed as to relieve Assessors of Taxes from prosecutions on their official bonds for failing or neglecting to have the assessment completed by the first day of June of each year; and provided further, that should the Assessor of Taxes or his deputies fail to administer the oath, or the person rendering fail to subscribe to the list, or should the Assessor of Taxes or his deputy fail to attest the same, as required by this act, the assessment thus made shall be as valid and hold as good as if every requirement of this act had been fully complied with.

Sec. 10.—If any person who is required by this act to list property shall be sick or absent when the Assessor calls for a list of his property, the Assessor shall leave at the office, or usual place of residence or business of such person, a written or printed notice, requiring such person to meet him and render a list of his property, at such time and place as the Assessor of Taxes may designate in said notice. The Assessor of Taxes shall carefully note in a book the date of leaving such notice.

Sec. 11. In every case where any person whose duty it is to list any property for taxation has refused or neglected to list the same when called on for that purpose by the Assessor of Taxes, or has refused to subscribe to the oath in regard to the truth of his statement of property, or any part thereof, when required by the Assessor of Taxes, the Assessor shall carefully note in a book the name of such person, who refused to list or to swear, and in every case where any person required to list property for taxation has been absent, or unable from sickness to list the same, the Assessor of Taxes shall carefully note in a book such fact, together with the name of such person.

Sec. 12. In all cases of failure to obtain a statement of real and personal property, from any cause, it shall be the duty of the Assessor of Taxes to ascertain the amount and value of such property, and assess the same as he believes to be the true and full value thereof, and such assessment shall be as valid and binding as if such property had been rendered by the proper owner thereof.

Sec. 13. The manner and form for assessing property rendered for taxation in this State shall be substantially as follows, to-wit: First—The name of the owner. Second—Abstract number. Third—Number of the survey. Fourth—The name of the original grantee. Fifth—The number of acres. Sixth—The value of the land. Seventh—The number of the lot or lots. Eighth—The number of the block. Ninth—The value of town lots. Tenth—The name of the city or town. Eleventh—Number of miles of railroad in the county. Twelfth—Value of railroads and appurtenances, including the proportionate amount of rolling stock to the county. Thirteenth—Number of miles of telegraph in the county. Fourteenth—Value of telegraph and appurtenances in the county. Fifteenth—Number and amount of land certificates and value thereof. Sixteenth—Number of horses and mules and value thereof. Seventeenth—Number of cattle and value thereof. Eighteenth—Number of jacks and jennets and value thereof. Nineteenth—Number of sheep and value thereof. Twentieth—Number of goats and value thereof. Twenty-first—Number of hogs and value thereof. Twenty-second—Number of carriages, buggies or wagons of whatsoever kind and value thereof. Twenty-third—Number of sewing machines and knitting machines and the value thereof. Twenty-fourth—Number of watches and clocks and value thereof. Twenty-fifth—Number of organs, melodeons, piano forte, and all other musical instruments whatsoever kind and value thereof.

Twenty-sixth—The value of household and kitchen furniture, over and above the amount of two hundred and fifty dollars. Twenty-seventh—Office furniture and value thereof. Twenty-eighth—The value of gold and silver plate. Twenty-ninth—The value of diamonds and jewelry. Thirtieth—Every annuity or royalty, the description and value thereof. Thirty-first—Number of steamboats, sailing vessels, wharf-boats, barge or other water craft and the value thereof. Thirty-second—The value of goods and merchandise of every description, which such person is required to list, as a merchant in hand on the first day of January of each year. Thirty-third—The value of materials and manufactured articles, which such person is required to list as a manufacturer. Thirty-fourth—The value of manufacturer's tools, implements and machinery, other than boilers and engines, which shall be listed as such. Thirty-fifth—Number of steam engines, including boilers and the value thereof. Thirty-sixth—The amount of moneys (except legal tender notes of the United States Treasury) of bank, banker, broker or stock-jobber. Thirty-seventh—The amount of solvent credits of bank, banker, broker or stock-jobber, and any other person. Thirty-eighth—The amount of moneys (except legal tender notes of the United States Treasury) other than of bank, banker, broker or stock-jobber. Thirty-ninth—The amounts of credits, other than of bank, banker, broker or stock-jobber. Fortieth—The amount and value of bonds and stocks (other than United States bonds). Forty-first—The amount and value of shares of capital stock companies and associations not incorporated by the laws of this State. Forty-second—The value of property of companies and corporations, other than property hereinbefore enumerated. Forty-third—The value of stock and furniture of saloons, hotels and eating houses. Forty-fourth—The value of every billiard, pigeon-hole, bagatelle, or other similar tables, together with the number thereof. Forty-fifth—Every franchise, the description and value thereof. Forty-sixth—The value of all other property not enumerated above; provided, that any departure from this form by the Assessor shall not invalidate the assessment thus made.

Sec. 14. If the Assessor of Taxes discover any real property in his county, subject to taxation, which has not been listed to him, he shall list and assess such property in the manner following, to-wit: First—The name of the owner; if unknown, say "unknown." Second—Abstract number. Third—Number of the survey. Fourth—Name of the original grantee. Fifth—Number of acres. Sixth—The true and full value thereof. Seventh—The number of lot or lots. Eighth—The number of the block. Ninth—the true and full value thereof. Tenth—The name of the city or town; and give such other description of the lot or lots, or parcels of land, as may be necessary to better describe the same and such assessment shall be as valid as if rendered by the owner thereof.

Sec. 15. If the Assessor of Taxes shall discover in his county, any real property which has not been assessed or rendered for taxation, for any year since 1870, he shall list and assess the same, for each and every year thus omitted, in the manner as prescribed in section fourteen of this act, and such assessment shall be as valid and binding as though it had been rendered by the owner thereof; provided, that no real property shall be assessed by the Assessor, under this section, unless he has ascertained by the certificate of the Comptroller of Public Accounts, the fact that the records of his office do not show that the property has been rendered or assessed, for the year in which he assessed it.

Sec. 16. The Assessors of Taxes, in the execution of their duties,

shall use the forms and follow the instructions which shall from time to time be prescribed by the Comptroller of the State and furnished to them by the County Judge in pursuance of law.

Sec. 17. In case the person listing property makes oath, and the assessing officer is satisfied that it is correctly valued, he shall list the same accordingly; but if the Assessor is satisfied that the value is too low, he shall list the same at such value as he, as a sworn officer, deems just; and if the person listing makes oath that the assessment is excessive, the value shall be decided by the Board of Equalization, whose valuation shall be final; provided, nothing herein contained shall prohibit the Board of Equalization from exercising the right to equalize all assessments made, in accordance with the law governing the Board of Equalization.

Sec. 18. The Assessor of Taxes shall furnish the Board of Equalization, on the first Monday in June of each year, or as soon thereafter as practicable, a certified list of names of all persons who either refuse to swear or to qualify, or to sign the oath or affirmation, as prescribed in this act; also a list of the names of those persons who refused to render a list of taxable property, as required by this act. And should any person so failing or refusing to take the oath prescribed, or to render a list of their property, or to subscribe to the oath, as required by the provisions of this act, fail to give satisfactory reasons for such failure or refusal to the Board of Equalization within one month from the date of the filing of said list by the Assessor, as required by this section, the Board of Equalization shall return a list of all persons who have failed to give satisfactory reasons for such failure or refusal to render, qualify or subscribe to the oath or affirmation, as the case may be, to the Assessor of Taxes, who shall present the said list to the grand jury of his county next empaneled after the Board of Equalization has furnished him with the list above required. Each and every Assessor of Taxes who shall fail or refuse to comply with the provisions of this section, shall be guilty of a misdemeanor and subject to indictment, and upon conviction thereof, shall be fined in any sum not less than fifty nor more than two hundred dollars.

Sec. 19. As soon as the Board of Equalization shall have examined, corrected and approved the Assessor's list, the Assessor of Taxes shall prepare and make out a roll or book, as may be required by the Comptroller, from the list so corrected and approved, and three exact copies of the same; the original to be furnished the Collector of Taxes, the second to the Comptroller of Public Accounts, and the third to be filed in the County Clerk's office for the inspection of the public. He shall also prepare a roll or book and two exact copies thereof, to be distributed: The first one to the Collector of Taxes, the second one to the Comptroller, the third one to be filed in the County Clerk's office, of all the real and personal property that from any cause had been neglected or failed to have been listed to him.

Sec. 20. The Assessor of Taxes shall submit all the lists of property rendered to him prior to the first Monday in June, to the Board of Equalization of his county, on the first Monday in June, or as soon thereafter as practicable, for their inspection, approval, correction, or equalization; and after the Board of Equalization shall have returned the corrected and approved lists of taxable property, the Assessor of Taxes shall proceed to assess all the unrendered property of his county, as provided for in this act, and shall proceed to make out and prepare

his rolls or books of all the real and personal property listed to him, in the form and manner prescribed by the Comptroller of the State.

Sec. 21. The Assessor of Taxes shall, after his list of unrendered real and personal property shall have been examined, corrected and approved by the Board of Equalization, as provided by law, prepare and make out his rolls or books of all unrendered real and personal property listed by him, in the manner and form prescribed by the Comptroller of the State.

Sec. 22. The Assessor of Taxes shall add up and note the aggregate of each column on his roll or book, and he shall also make in each book or roll, under proper headings, a tabular statement showing the footings of the several columns upon each page; and he shall add up and set down under the respective h(e)adings, the totals of the several colum(n)s.

Sec. 23. The Assessor of Taxes shall on or before the first day of August of each year for which the assessment is made, return his rolls or assessment books of the taxable property rendered to him or listed by him for that year, after they have been made in accordance with the provisions of this act, to the County Board of Equalization, verified by his affidavit substantially in the following form:

State of Texas, }
 _____ County. } ss.
 I, (name the Assessor) Assessor of (name the county) county, do solemnly swear that the rolls (or books) to which this is attached, contain a correct and full list of all the real and personal property subject to taxation in _____ (fill the blank with the name of the county) county, so far as I have been able to ascertain the same, and that the assessed value set down in the proper column, opposite the several kinds and descriptions of property, to the best of my knowledge and belief, and that the footings of the several columns in said books, and the tabular statement returned, is correct, as I verily believe. _____ (fill blank with name of Assessor) Assessor. Sworn to, and subscribed to before me, this _____ (day of month) day of _____ (fill blank with the month) 18— (fill blank with the year). _____ (name of clerk), Clerk of District Court, _____ (name of county) county.

Sec. 24. The Assessor of Taxes shall, at the same time, deliver to the Board of Equalization, all the lists, statements of all property which shall have been made out or received by him and arranged in alphabetical order, together with the roll withdrawn to aid him in the past assessment. The lists and statements shall be filed in the County Clerk's office, and remain there for the inspection of the public.

Sec. 25. After the Board of Equalization shall have examined the rolls or assessment books and made all corrections, if any be necessary, the Assessor shall send one copy of each to the Comptroller of Public Accounts, one copy of each to the Collector of his county, and he shall file the other copies in the County Clerk's office until the next assessment, when the Assessor shall have the right to withdraw them and use as provided in this act.

Sec. 26. Each Assessor of Taxes within this State shall receive as a compensation for his services for assessing the State tax, five per centum of the amount of the State taxes assessed by him, and shall

receive from the county three per centum on the amount of county taxes assessed by him.

Sec. 27. The Comptroller, on receipt of the rolls, shall give the Assessor an order on the Collector of his county for the amount due him by the State, for assessing the State taxes, to be paid out of the first money collected for that year.

Sec. 28. The Commissioners' Court shall issue an order on the County Treasurer of their county to the Assessor, for the amount due him for assessing the county tax of their county, to be paid out of the first money received from the Collector on the rolls of that year.

Sec. 29. Should any Assessor of Taxes fail or neglect to make out and return his rolls or books to the Commissioners' Court, in the time and manner provided for in this act, it shall be competent for the Commissioners' Court to deduct from his compensation such amount as they may deem proper and right for such neglect or failure; and should his rolls or books, when presented for approval to the Commissioners' Court, prove to be imperfect or erroneous, the Court shall have the same corrected or perfected, either by the Assessor or some other person than the Assessor of Taxes. Such person so employed by the Commissioners' Court, shall be entitled to such part of the commissions to which such Assessor is entitled as the Court may allow, and said Court shall so certify to the Comptroller, who shall pay such person in the same manner as the Assessor of Taxes is paid, and the amount so paid shall be deducted by the Comptroller from the commissions of the Assessor of Taxes, whose duty it was to have performed such work.

Sec. 30. It shall be the duty of the Assessor of Taxes to take a careful census of the children in their counties who are within the scholastic age, as prescribed by the laws regulating public schools; which census shall contain the name, sex, age and date of each child's birth, as near as practicable, and the name of the parent or guardian, also the scholastic community or district to which each child belongs. The Assessor shall also prepare two abstracts of said census, showing the number of children, white and colored, male and female, and such other data as may be required on the forms furnished by the Board of Education. The Assessor shall make oath, in writing, on each of said abstracts and said census, that the same are correct, and file the same with the Clerk of the County Court of his county.

Sec. 31. The Assessor of Taxes shall receive for taking, making out and reporting the scholastic inhabitants, as required above, four cents for each child for the first thousand, and two and a half cents for each child over and above the first thousand taken and reported by him, to be paid out of the school fund. The Comptroller, on the receipt of the certified copy of the scholastic inhabitants as required in Section thirty (30) of this act, shall give the Assessor an order on the Collector of his county for the amount due him for taking the scholastic census as required by law, to be paid out of the first money collected on such funds for that year; said order, endorsed by the Assessor to the Collector, shall be accredited to the Collector, on settlement of his accounts with the Comptroller, as so much money paid in.

Sec. 32. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 33. There being no adequate law in force for the assessment of taxes in this State, an imperative public necessity exists for the passage

of this act at the present session of the Legislature; it shall therefore take effect and be in force from and after its passage.

Approved August 21, 1876.

Takes effect ninety days after adjournment.

CHAPTER CLIV.—An Act to repeal “An Act to provide for the registration of births.”

Section 1. Be it enacted by the Legislature of the State of Texas, That “An Act to provide for the registration of births,” approved May 3, 1873, be and the same is hereby repealed.

Approved August 21, 1876.

Takes effect ninety days after adjournment.

CHAPTER CLV.—An Act to provide for the manner of purchasing fuel for the use of the Legislature, and other departments of the government (except the Judicial Department), by contract.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That the Attorney-General, Treasurer and Secretary of State, be and are hereby constituted a Board of Contractors, authorized and required to contract with any suitable person or persons, firm or firms, who are residents of and doing business in this State, to furnish such fuel as may be required by law or needed by any department of the State Government, except the Judicial Department; provided, that the said contract shall be for the term of one year, and until a new contract shall be made and approved.

Sec. 2. That the Secretary of State shall every year, and at such other times as are necessary, advertise for thirty days, in one or more weekly newspapers published in the city of Austin, and having the largest circulation, for sealed proposals for furnishing such fuel, and shall, in said advertisement, state a time and place when and where said proposals shall be received and opened, and contract awarded, not exceeding forty days from the date of the first publication of said advertisement; and he shall, in said advertisement, give such specifications and estimates of the probable amount and quality of fuel that will be required, as may be practicable. The proposals shall be sealed and addressed to the Secretary of State, and shall be endorsed with the statement that they are proposals for fuel, and, when received, shall be filed carefully away by the Secretary of State in his office, and the seals thereof shall not be broken until the day named in the advertisement for awarding the contract, and shall be opened in the presence of the Contracting Board, and such bidders as may desire to be present. The bids shall be examined by the Contracting Board, a careful comparison made, and the contract awarded to the lowest and best responsible bidder, whose bid shall be below such maximum rates as are hereinafter prescribed; provided, that each bid shall be accompanied by a guarantee, signed by at least two responsible citizens, guaranteeing that, if the contract be awarded to the said bidder, that he or they will enter into contract, and give a good and sufficient bond to carry out the same.

Sec. 3. That at any time after a contract has been made and entered into with any person or firm as herein provided, the Legislature reserves the right to abrogate said contract if not executed, and to alter or amend by enactment the maximum rates for such fuel. The Board of Contractors shall have power, and is hereby required when the Legis-

lature is not in session, to cancel the contract, whenever the party or parties fail to comply with the contract as promptly as the exigencies of the public service demand; and it shall be their duty to let out a new contract in the manner herein provided; provided, however, such contract shall not be cancelled without the consent of the Governor and Comptroller thereto.

Sec. 4. That the Secretary of State shall keep a record of his proceedings and the proceedings of the Board of Contractors; provided, that a majority of said Board shall be competent to do business.

Sec. 5. That no member or officer of any department of the government, shall be in any way interested in said contracts, and all such contracts shall be in writing, and signed by the Board of Contractors, and approved in writing by the Governor, Secretary of State, and Comptroller.

Sec. 6. That the rate paid for fuel in said contracts shall not exceed six dollars and ten cents per cord for dry cedar, and five dollars and ten cents per cord for dry oak and other kinds of wood except cedar.

Sec. 7. That an imperative public necessity exists for the suspension of the rules and immediate passage of this act, and there being no law now in force under which the necessary fuel for the public buildings can be obtained, the emergency requires, and it is hereby enacted that this act take effect and be in force from and after its passage.

Approved August 21, 1876.

Takes effect from its passage.

CHAPTER CLVI.—An Act to provide for the change of venue by the State in criminal cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever, in any case of felony, the District Judge presiding shall be satisfied that a trial alike fair and impartial to the accused and to the State cannot, from any cause, be had in the county in which the case is pending, he may, upon his own motion, order a change of venue to any county in his own, or in an adjoining district, stating in his order the grounds for such change of venue.

Sec. 2. Whenever the District or County Attorney shall represent in writing to the District Court before which any felony case is pending, that by reason of existing combinations or influences in favor of the accused, or on account of the lawless condition of affairs in the county, a fair and impartial trial as between the accused and the State can not be safely and speedily had, or whenever he shall represent that the life of the prisoner or of any of the witnesses would be jeopardized by a trial in the county in which the case is pending, the Judge shall hear proof in relation thereto, and if satisfied that such representation is well founded, and that the ends of public justice will be subserved thereby, he shall order a change of venue to any county in his own, or in an adjoining district.

Sec. 3. In all cases where the venue shall be changed under the provisions of this act, the same orders shall be made and the same proceeding had, and the same duties be performed on the part of the Clerks and Sheriffs, as are required by the code of criminal procedure in cases where a change of venue is made on the application of the accused.

Sec. 4. That, owing to the existence of combinations of lawless men in certain portions of the State, speedy and impartial trials can not be

had in criminal causes, and as there is not in force any law authorizing a change of venue by the State, therefore, this act go into effect and be in force from and after its passage.

Approved August 21, 1876.

Takes effect from its passage.

CHAPTER CLVII.—An Act defining what money and property is subject to taxation or exemption, and the mode of listing the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That all real and personal property in this State, the property of corporations now existing or may be hereafter created, and the property of all banks or banking companies now existing or may be hereafter created, and of all bankers, except such as is hereinafter expressly exempted, is subject to taxation, and such property, or the value thereof, shall be entered in a list of taxable property for that purpose, in a manner prescribed by this act.

Sec. 2. Real property, for the purpose of taxation, shall be construed to include the land itself, whether laid out in town lots, or otherwise, and all the buildings, structures and improvements, or other fixtures, of whatsoever kind thereon, and all the rights and privileges belonging or in any wise appertaining thereto, and all mines, minerals, quarries and fossils in and under the same.

Sec. 3. Personal property shall, for the purpose of taxation, be construed to include all goods, chattels, moneys, credits and effects, where-soever they may be in this State; provided, that moneys, credits, bonds, and other evidences of debt, shall be included, whether the same be in or out of this State; all ships, boats and vessels belonging to inhabitants of this State, if registered in this State, whether at home or abroad, and all capital invested therein; all moneys at interest, either within or without this State due the person to be taxed, over and above what he pays interest for, and all other debts due such persons over and above their indebtedness; provided, that notes that are taken for land shall not be taxed; all public stocks and securities; all stock in turnpikes, railroads, canals and other corporations (except National Banks) out of the State owned by inhabitants of this State; all personal estate of moneyed corporations, whether the owners thereof reside in or out of this State; and the income of any annuity, unless the capital of such annuity be taxed within the State; all shares in any bank organized or that may be organized under the law of the United States; all improvements made by persons upon lands held by them, the title to which is still vested in the State of Texas, or in any railroad company, or which have been exempted from taxation for the benefit of any railroad company or any other corporations, or any other corporation whose property is not subject to the same mode and rule of taxation as other property; provided, that nothing in this section shall be so construed as to exempt from taxation any improvements on lands granted to any railroad company or other corporation, and exempted from taxation for a term of years.

Sec. 4. The term money or moneys, wherever used in this act shall, besides money or moneys, include every deposit which any person owning the same, or holding in trust, and residing in this State, is entitled to withdraw in money on demand. The term "credits," whenever used in this act or any other act regulating the assessment or collection of taxes, shall be held to mean and include every claim and

demand for money or other valuable thing, and every annuity or sum of money receivable at stated periods, due or to become due; and all claims and demands secured by deed or mortgage, due or to become due. The terms "tract," or lot, and piece or parcel of real property, and piece and parcel of land, whenever used in this act or any act regulating the assessment and collection of taxes, shall each be held to mean any quantity of land in possession of, owned by, or recorded as the property of the same claimant, person, company or corporation. Every word importing the singular number only, may extend to and embrace the plural; and every word importing the plural number, may be applied and limited to the singular number; and every word importing the masculine gender only, may be extended and applied to females as well as males. Whenever the word "oath" is used in this act or any other act regulating the assessment and collection of taxes, it shall be held to mean oath or affirmation; and the word swear, in this act or any other act regulating the assessment and collection of taxes, may be held to mean "affirm." The words town or district, whenever used in this act or any other act regulating the assessment and collection of taxes, shall be construed to mean village, city, ward or precinct, as the case may be. The term "true and full value," whenever used in this act or any other act regulating the assessment and collection of taxes, shall be held to mean the fair market value in cash at the place where the property to which the term is applied, shall be at the time of assessment, being the price which could be obtained therefor at private sale, and not at force or auction sale. The term person, whenever used in this act or any other act regulating the assessment and collection of taxes, shall be construed to include firm, company or corporation.

Sec. 5. All property described in this section to the extent herein limited, shall be exempt from taxation; that is to say: First—Public schoolhouses and houses used exclusively for public worship, the books and furniture therein, and the grounds attached to such buildings necessary for the proper occupancy, use and enjoyment of the same, and not leased or otherwise used with a view to profit; all public colleges, public academies; all buildings connected with the same; and all lands connected with public institutions of learning; and all endowment funds of institutions of learning not used with a view to profit; and all buildings used exclusively, and owned by persons or associations of persons for school purposes. This provision shall not extend to leasehold estates of real property held under the authority of any college or university of learning in this State. Second—All lands used exclusively for grave yards or grounds for burying the dead, except such as are held by any person, company or corporation with a view to profit, or for the purpose of speculation in the sale thereof. Third—All property, whether real or personal, belonging exclusively to this State or the United States. Fourth—All buildings belonging to the counties, used for holding courts, for jails, for county officers, with the land belonging to and on which such buildings are erected. Fifth—All lands, houses or other buildings belonging to any county, precinct or town used exclusively for the support or accommodation of the poor. Sixth—All buildings belonging to institutions of purely public charity, together with the lands belonging to and occupied by such institutions, not leased or otherwise used with a view to profit; and all moneys and credits appropriated solely to sustaining and belonging exclusively to such institutions. Seventh—All fire engines

and other implements owned by towns and cities used for the extinguishment of fires, with the buildings used exclusively for the safe keeping thereof. Eighth—All market houses, public squares or other public grounds, town or precinct houses or halls used exclusively for public purposes; and all works, machinery or fixtures belonging to any town, and used for conveying water to such town. Ninth—All public libraries and personal property belonging to the same. Tenth—Household and kitchen furniture, not exceeding, at their true and full value, an amount of two hundred and fifty dollars to each family, in which may be included one sewing machine.

Sec 6. All property shall be listed for taxation between January 1, and June 1, of each year, when required by the Assessor, with reference to the quantity held or owned on the first day of January, in the year for which the property is required to be listed or rendered. Any property (real or personal) purchased or acquired on the first day of January shall be listed by or for the person purchasing or acquiring it.

Sec. 7. All property shall be listed or rendered in the manner following: First—Every person of full age and sound mind, being a resident of this State, shall list all of his real estate, moneys, credits, bonds or stock of joint stock or other companies (when the property of such company is not assessed in this State), moneys loaned or invested, annuities, franchises, royalties and all other real and personal property. Second—He shall also list all lands or other real estate, all moneys and other personal property invested, loaned or otherwise controlled by him as the agent or attorney, or on account of any other person, company or corporation whatsoever, and all moneys deposited subject to his order, check, or draft, and credits due from or owing by any person or persons, body corporate or politic. Third—The property of a minor child shall be listed by his guardian or by the person having such property in charge. Fourth—The property of a wife, by her husband, if of sound mind; if not, by herself. Fifth—The property of an idiot or lunatic, by the person having charge of such property. Sixth—The property of a person for whose benefit it is held in trust by the trustee of the estate of a deceased person, by the executor or administrator. Seventh—The property of corporations whose assets are in the hands of receivers, by such receivers. Eighth—The property of a body politic or corporate, by the President, or proper agent or officer thereof. Ninth—The property of a firm or company, by a partner or agent thereof. Tenth—The property of manufacturers and others, in the hands of an agent, by such agent, in the name of his principal, as real, personal and merchandise.

Sec. 8. All property, real and personal, except such as is required in this act to be listed and assessed otherwise, shall be listed and assessed in the county where it is situated.

Sec. 9. The stock of nurseries, growing or otherwise, in the hands of nurserymen, shall be listed and assessed as merchandise.

Sec. 10. All persons, companies and corporations in this State, owning steamboats, sailing vessels, wharf boats and other water crafts, shall be required to list the same for assessment and taxation in the county in which the same may be enrolled, registered or licensed; or kept, when not enrolled, registered or licensed.

Sec. 11. All railroad, telegraph, plank road and turnpike companies shall list all of their real and personal property, giving the number of miles of road-bed and line in the county where such road-bed and line

is situated, at the full and true value, except when such company may own personal property or real estate in an unorganized county or district; then they shall list such property to the Comptroller of the State.

Sec. 12. Persons required to list property on behalf of others shall list it in the same manner in which they are required to list their own, but they shall list it separately from their own, specifying in each case the name of the person, estate, company or corporation to whom it belongs.

Sec. 13. Each person required by this act to list property shall make and sign a statement verified by his oath as required by law, of all property, both real and personal, in his possession or under his control, and which by the provisions of this act he is required to list for taxation, either as owner or holder thereof, or as guardian, parent, husband, trustee, executor, administrator, receiver, accounting officer, partner, agent or factor; provided, that no person shall be required to list or render a greater portion of his credits than he believes will be received, or can be collected, or to include in his statement as a part of his personal property which is required to list any share or portion of the capital stock or property of any company or corporation, which he is, or which is required to list or return its capital and property for taxation in this State.

Sec. 14. Such statements shall truly and distinctly set forth: First—The name of the owner. Second—The abstract number. Third—The number of the survey. Fourth—The name of the original grantee. Fifth—The number of acres. Sixth—The value of the land. Seventh—The number of the lot or lots. Eighth—The number of the block. Ninth—The value of the town lots. Tenth—The name of the city or town. Eleventh—The number of miles of railroad in the county. Twelfth—Value of railroads and appurtenances, including the proportionate amount of rolling stock to the county. Thirteenth—Number of miles of telegraph in the county. Fourteenth—Value of telegraph and appurtenances in the county. Fifteenth—Number and amount of land certificates, and value thereof. Sixteenth—Number of horses and mules, and the value thereof. Seventeenth—Number of cattle, and value thereof. Eighteenth—Number of jacks and jennets, and value thereof. Nineteenth—Number of sheep, and value thereof. Twentieth—Number of goats, and value thereof. Twenty-first—Number of hogs, and value thereof. Twenty-second—Number of carriages, buggies, or wagons, of whatsoever kind, and value thereof. Twenty-third—Number of sewing machines and knitting machines, and value thereof. Twenty-fourth—Number of clocks and watches, and value thereof. Twenty-fifth—Number of organs, melodeons, piano fortes, and all other musical instruments of whatsoever kind, and value thereof. Twenty-sixth—The value of household and kitchen furniture over and above the amount of two hundred and fifty dollars. Twenty-seventh—Office furniture, and the value thereof. Twenty-eighth—The value of gold and silver plate. Twenty-ninth—The value of diamonds and jewelry. Thirtieth—Every annuity or royalty, the description and value thereof. Thirty-first—Number of steamboats, sailing vessels, wharf boats, barge or other water craft, and the value thereof. Thirty-second—The value of goods, wares and merchandise of every description, which such person is required to list as a merchant (in hand on the first day of January of each year). Thirty-third—Value of materials and manufactured articles which such person is required to list as a manufacturer. Thirty-fourth—Value of manufacturer's tools, implements, and machinery (other than

boilers and engines, which shall be listed as such). Thirty-fifth—Number of steam engines, including boilers, and the value thereof. Thirty-sixth—Amount of moneys of bank, banker, broker or stock jobber. Thirty-seventh—Amount of credits of bank, banker, broker or stock jobber. Thirty-eighth—Amount of moneys other than of bank, banker, broker or stock-jobber. Thirty-ninth—Amount of credits other than of bank, banker, broker and stock jobber. Fortieth—Amount and value of bonds and stocks (other than United States bonds). Forty-first—Amount and value of shares of capital stock companies and associations not incorporated by the laws of this State. Forty-second—Value of all property of companies and corporations other than property hereinbefore enumerated. Forty-third—Value of stock and furniture of saloons, hotels and eating houses. Forty-fourth—Value of every billiard, pigeon-hole, bagatelle, or other similar tables, together with the number thereof. Forty-fifth—Every franchise, the description and value thereof. Forty-sixth—Value of all other property not enumerated above.

Sec. 15. Persons listing or rendering real estate shall make a statement, duly signed and under oath, which shall truly and distinctly set forth: First—The name of the owner, abstract number, number of survey, the name of the original grantee, the number of acres, and the true and full value thereof. Second—The number of the lot and block and the true and full value thereof, together with the name of the town or city. Third—When the name of the original grantee or abstract number, or number of survey is unknown (say unknown); and give such description so that land or lot can be identified, and the true and full value thereof can be determined.

Sec. 16. Every bank, whether of issue or deposit, banker, broker, dealer in exchange or stock jobber, shall at the time fixed by this act for listing personal property, make out and furnish the Assessor of Taxes a sworn statement, showing: First—The amount of money on hand or in transit. Second—The amount of funds in the hands of other bankers, brokers or others subject to drafts. Third—The amount of checks or other cash items; the amount thereof not being included in either of the preceding items. Fourth—The amount of bills receivable, discounted or purchased and other credits due or to become due, including accounts receivable, interest accrued but not due, and interest due and unpaid. Fifth—The amount of bonds and stocks of every kind, and shares of capital stock, of joint stock or other companies or corporations, held as an investment or in any way representing assets. Sixth—All property appertaining to said business other than real estate (which real estate shall be listed and assessed as other real estate is listed and assessed under this act). Seventh—The amount of all deposits made with them by other parties. Eighth—The amount of all accounts payable, other than current deposit accounts. Ninth—The amount of bonds or other securities exempt by law from taxation, and the amount of shares of stock of any company or corporation which is required to list its capital for taxation, specifying the amount and kind of each, the same being included in the preceding fifth item. The aggregate amount of the first, second and third shall be listed as money; the amount of the sixth item shall be listed the same as other similar personal property is listed under this act. The aggregate amount of the seventh and eighth items shall be deducted from the aggregate amount of the first, second, third and fourth items of said statement, and the amount of the remainder, if any, shall be listed as credits.

The aggregate amount of the ninth item shall be deducted from the aggregate amount of the fifth item of such statement, and the remainder shall be listed as bonds or stocks.

Sec. 17. No person, company or corporation shall be entitled to any deduction on account of any bond, note or obligation of any kind, given to any mutual insurance company, nor on account of any unpaid subscription to any religious, literary, scientific or charitable institution or society, nor on account of any subscription to, or installment payable on the capital stock of any company, whether incorporated or unincorporated.

Sec. 18. It shall be the duty of every railroad corporation in this State to deliver a sworn statement on or before the first day of June in each year, to the Assessor of each county and incorporated town into which any part of their road shall run, or in which they own or are in possession of real estate, a classified list of all real estate owned or in the possession of said company in said county or town, specifying: First—The whole number of acres of land owned, possessed or appropriated for their use, with a valuation affixed to the same, deducting such portions, if any, as are already devoted to public use and purposes. Second—The whole length of their superstructure, and value thereof, and construing "superstructure" to mean the ties, chairs, rails, spikes, frogs and switches, whether such superstructure be laid on land or on artificial foundation. Third—The buildings, machinery and tools therein belonging to the company or in their possession, describing them by location, with the estimated value.

Sec. 19. It shall be the duty of every railroad corporation in this State to deliver a sworn statement on or before the first day of June in each year, to the Assessor of each county and incorporated town into which any part of their road shall run, setting forth the true and full value of the rolling stock of such railroad; and the same shall be rendered and listed for taxes to the Assessor of Taxes of the county and incorporated town through which such railroad runs, and shall be proportioned to the county or incorporated town as the number of miles of such railroad in the county or incorporated town is to the entire number of miles of the railroad.

Sec. 20. All property of private corporations, except in cases where some other provision is made by law, shall be assessed in the name of the corporation; and, in collecting the taxes on the same, all the personal property of such corporation shall be liable to be seized whenever the same may be found in the county, and sold in the same manner as the property of individuals may be sold for taxes.

Sec. 21. All real property in this State, subject to taxation under this act, shall be assessed to the owners thereof in the manner provided in this act; provided, that no assessment of real property shall be considered illegal by reason of the same not being listed or assessed in the name of the owner or owners thereof. All statements and lists made under this act by corporations, that are required to be sworn to, shall be verified by the affidavit and signature of the Secretary of said corporation; and, if they have no secretary, the officer who discharges the duties of Secretary of said corporation.

Sec. 22. The taxes, together with all interests, costs of suit, etc. (if there shall be any necessary), for the collection of the same, shall be a lien on real property, until the same shall have been paid. It is also provided that should the Assessor fail to assess any real estate for any one

or more years, the lien shall be good for every year that he should fail to assess for, and he may, in listing property for taxes any year thereafter, assess all the back taxes due thereon, according to the provisions of this act.

Sec. 23. Property held under a lease for a term of three or more years, or a contract for the purchase thereof, belonging to this State, or any religious, scientific or benevolent society or institution, whether incorporated or unincorporated, or to any railroad company or other corporation, whose property is not taxed in the same manner as other property, and school or other State lands, shall be considered, for all purposes of taxation, as the property of the persons so holding the same.

Sec. 24. First—Each separate parcel of real property shall be valued at its true and full value in money, excluding the value of crops growing thereon. Second—In determining the true and full value of real and personal property, the Assessor shall not adopt a lower or different standard of value, because the same is to serve as a basis of taxation; nor shall he adopt as a criterion of value the price for which said property would sell at auction, or at a forced sale, or in the aggregate with all the property in his county; but he shall value each tract or lot by itself, and at such sum or price as he believes the same to be fairly worth in money at the time such assessment is made. Third—In valuing any real property on which there is a coal or other mine, or stone or other quarry, or springs possessing medicinal properties, the same shall be valued at such a price as such property, including a mine or quarry, or spring, would sell at a fair, voluntary sale for cash. Fourth—Taxable leasehold estates shall be valued at such a price as they would bring at fair, voluntary sale for cash. Fifth—Personal property of every description shall be valued at its true and full value thereof in money. Sixth—Money, whether in possession or on deposit, or in the hands of any member of the family, or any other person or persons whatsoever, shall be entered in the statement at the full amount thereof. Seventh—Every credit for a sum certain, payable either in money or property of any kind, shall be valued at the full value of the same so payable, if for a specific article, or for a specific number or quantity of property of any kind, which shall be valued at the current price of such property at the place where payable. Annuities, or moneys payable at stated periods, shall be valued at the price that the person listing the same believes them to be worth in money. Pensions granted under the act of the present session of the Legislature to the surviving soldiers and volunteers of the Texas Revolution, and the surviving signers of the Declaration of Texas Independence, and the surviving widows of such soldiers, signers and volunteers, shall not be taxed.

Approved August 21, 1876.

Takes effect ninety days after adjournment.

CHAPTER CLVIII.—An Act to authorize the Comptroller of Public Accounts to issue duplicate warrants, and duplicates or copies of certificates, or other evidences of indebtedness, approved by the Auditorial Board of the State.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Comptroller of Public Accounts, when satisfied that any original warrant drawn by the Comptroller of Public Accounts upon the State Treasurer has been lost, or when any certificate or other evidence of in-

debtedness, approved by the Auditorial Board of the State, has been lost, be and he is hereby authorized to issue a duplicate warrant in lieu of the original warrant; or a duplicate or a copy of such certificate, or other evidence of the indebtedness, in lieu of such original; and upon the applicant filing with the Comptroller his affidavit that he is the true owner of such instrument, and that the same is in fact lost or destroyed, and shall also file with the Comptroller his bond in double the amount of the claim, with two or more good and sufficient sureties, payable to the Governor of the State, to be approved by the Comptroller, and conditioned that the applicant will hold the State harmless and return to the Comptroller, upon demand being made therefor, said duplicates or copies, or the amount of money named therein, together with all costs that may accrue against the State, on collecting the same.

Sec. 2. That if, after the issuance of said duplicates or copies, the Comptroller should ascertain that the same was improperly issued, or that the applicant or party to whom the same was issued was not the owner thereof, he shall at once demand the return of said duplicate or copy, if unpaid, or the amount paid out by the State, if so paid; and upon the failure of the party to return the same, or the amount of money called for, suit shall be instituted upon said bond in the court having jurisdiction of the amount in controversy in the city of Austin, Travis county, Texas.

Sec. 3. Whereas, there are many persons in this State who have lost original warrants issued by the Comptroller of Public Accounts upon the State Treasurer, and there is no law in force authorizing the Comptroller to issue a duplicate warrant for the same, and such persons are thereby deprived of the money due upon said warrants, thus creating an imperative public necessity and an emergency for the immediate passage of this act; therefore, it shall take effect and be in force from and after its passage.

Approved August 21, 1876.

Takes effect ninety days after adjournment.

CHAPTER CLIX.—An Act to transfer suits and unfinished business pending in the courts of Justices of the Peace at the time of adoption of the Constitution of 1875, for the State of Texas, to the Courts of Justices of the Peace of the precincts in which said suits should be tried.

Section 1. Be it enacted by the Legislature of the State of Texas, That all suits and unfinished business pending in courts of Justices of the Peace in the State of Texas where, under the Constitution of 1875, the precincts have been changed, shall be transferred to the courts of Justice of the Peace of the precinct wherein the parties defendant to said causes shall reside at the time of the passage of this act, for the final disposition of said causes, and said Justices of the Peace, to whom said business shall be transferred, shall issue all such process as may be necessary to bring such parties into court for the disposition of said causes; and said Justices of the Peace, to whom said business is so transferred, shall issue all such process as is necessary to enforce such judgments as have heretofore been rendered and duly transferred to said Justices' courts.

Sec. 2. As much unfinished business yet remains upon the dockets of the different Justices of the Peace of Texas, which, owing to the changes caused by the adoption of the Constitution of the State of

Texas of 1876, and many hardships and inconveniences will result unless speedy relief is had, there exists a great emergency and a necessity that this act take effect and be in force immediately upon its passage, and it is so enacted.

Approved August 21, 1876.

Takes effect from its passage.

CHAPTER CLX.—An Act to regulate the respective duties of District and County Attorneys.

Section 1. Be it enacted by the Legislature of the State of Texas, That the powers and duties of District Attorneys, including the Attorney for the Criminal District Court of the counties of Galveston and Harris, shall be the same as is now or may hereafter be prescribed by law, subject; however, to the following restrictions.

Sec. 2. That in counties where there is a County Attorney, it shall be his duty to attend the terms of the County and inferior Courts of his county, and to represent the State in all criminal cases under examination or prosecution in said county, and also to attend the terms of the District Court, and to represent the State in all cases in said court, during the absence of the District Attorney, and to aid the District Attorney when so requested. And when representing the State in the District Court, during the absence of the District Attorney, he shall be entitled to and receive the fees allowed by law to the said District Attorney, and when he shall, at the request of the District Attorney, aid him in examinations or trial of any case, he shall receive one-half of the fee or fees, and the District Attorney shall have and receive the other half of the fee allowed by law in such cases.

Sec. 3. That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

Sec. 4. That there being no sufficient law upon the subject herein named, an imperative public necessity exists for the immediate passage of this act, it shall therefore take effect and be in force from and after its passage.

Approved August 21, 1876.

Takes effect from its passage.

CHAPTER CLXI.—An Act to authorize the State Board of Education to collect and invest the interest due on the bonds belonging to the Agricultural and Mechanical College in six per cent. State bonds.

Section 1. Be it enacted by the Legislature of the State of Texas, That the State Board of Education is hereby authorized to collect the interest that will be due at the end of the present fiscal year on the bonds belonging to the Agricultural and Mechanical College of Texas, and invest the same in six per cent. State bonds, except twelve thousand dollars (\$12,000).

Sec. 2. It shall be the duty of the State Board of Education to collect the semi-annual interest on the bonds contemplated in this act, as the same may become due, as well as the interest that may become due on the bonds already belonging to the Agricultural and Mechanical College fund, and place the same in the Treasury of the State to the credit of said College fund.

Sec. 3. Whereas, it is important for the prompt collection and in-

vestment of the interest due on the said bonds, creates an emergency; this act shall go into effect from its passage.

Approved August 21, 1876.

Takes effect ninety days after adjournment.

CHAPTER CLXII.—An Act to regulate the compensation of jurors in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever a special venire facias may be ordered for the trial of any cause, as is provided for in Articles 548 and 549 of the code of criminal procedure, only those persons who are accepted and actually sworn as jurors to try the cause shall be entitled to compensation as jurors.

Sec. 2. The laws on this subject being imperfect and the present session of this Legislature rapidly drawing to a close, an emergency and public necessity exists for the immediate passage of this act; therefore this act shall take effect and be in force from and after its passage.

Approved August 21, 1876.

Takes effect ninety days after adjournment.

CHAPTER CLXIII.—An Act supplemental to an act entitled "An Act making appropriations for the deficiencies for the present year, beginning September 1, 1875, and ending August 31, 1876, and previous years."

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of two hundred and thirty-seven dollars be and the same is hereby appropriated out of any money in the Treasury not otherwise appropriated, to pay John D. Elliott for public printing during the year 1876.

Sec. 2. As this session of the Legislature is drawing to a close, an emergency and public necessity exist for the passage of this act at the present; it shall therefore take effect and be in force from and after its passage.

NOTE.—The above bill was neither approved or disapproved by the Governor, but was filed in the office of Secretary of State on the 23d day of August, 1876, at 10 o'clock a. m., being after the adjournment of the Legislature, and will become a law without his approval, and will take effect ninety days after the adjournment of the Legislature.

A. W. DEBERRY, Secretary of State.

CHAPTER CLXIV.—An Act to fix and regulate the fees of all officers of the State of Texas, and the several counties thereof.

Section 1. Be it enacted by the Legislature of the State of Texas, That the various officers hereinafter named shall demand and receive the fees herein designated for the services indicated, and that the same shall be due and payable in the lawful currency of the United States.

Sec. 2. The Attorney-General shall receive the following fees: In every conviction of offenses against the penal laws in cases of misdemeanor, when the judgment is affirmed or when the appeal is dismissed, ten dollars; in cases of forfeitures and fines taken to the Court of Appeals, ten per cent. of the amount collected under final judgment of Court of Appeals; for each affirmance of judgment or dismissal in a case, twenty dollars; for each case of habeas corpus heard before Court of Appeals, twenty-five dollars; for each affirmance of

judgment in cases to which the State may be a party involving pecuniary liabilities to the State, ten per cent. on the amount involved, if under one thousand dollars, and five per cent. for all above that sum, to be paid out of the money when collected; for all cases involving the forfeiture of charters, heard on appeal before the Supreme Court or Court of Appeals, twenty-five dollars; provided, the whole amount of fees shall not exceed two thousand dollars per annum.

Sec. 3. The Assistant Attorney-General shall receive as mileage and traveling expenses one thousand dollars per annum.

Sec. 4. The Clerks of the Supreme Court, shall receive the following fees: For entering the appearance of either party in person or by attorney, to be charged but once, fifty cents; for docketing each cause, to be charged but once, fifty cents; for filing the record in each cause, fifty cents; for entering each rule or motion, twenty-five cents; for entering the order of the court upon any rule or motion, or for entering any interlocutory judgment, fifty cents; for administering an oath or affirmation without a certificate, fifteen cents; for administering an oath or affirmation and giving a certificate thereof with seal, twenty-five cents; for entering each continuance, twenty-five cents; for entering every final judgment or decree, one dollar; for each writ issued, one dollar; for making out and transmitting the mandate and judgment of the Supreme Court to any inferior court, one dollar and fifty cents; for making copies of any papers or records in his office, including certificate and seal, when applied for by any person, for each hundred words, fifteen cents; for recording the opinions of the Judges, for each hundred words, twenty cents; for taxing the bill of costs in each case, with copy thereof, fifty cents; for every service not herein provided for, such fees as may be allowed by the Supreme Court, not to exceed the fees herein allowed for services requiring a like amount of labor. There shall be allowed to said Clerk reasonable office rent, stationery and furniture for his office, to be paid on the approval and order of the Supreme Court, out of the appropriation for the contingent expenses of said court.

Sec. 5. The Clerk of the Court of Appeals shall receive the following fees: In every appeal by the defendant in case of misdemeanor, when judgment is affirmed, ten dollars, to be paid by defendant; in civil cases, the same fees as are allowed to Clerks of the Supreme Court for like services; the Clerk of the Court of Appeals, in every case of felony upon which an appeal is taken, ten dollars, to be paid by the State.

Sec. 6. County Judges shall receive the following fees: For each civil cause finally disposed of before him, by trial or otherwise, three dollars; probating a will, two dollars; for granting letters testamentary of administration or of guardianship, fifty cents; for each order of sale, fifty cents; for each approval and confirmation of sale, fifty cents; for each decree of partition and distribution, two dollars; for each decree approving or setting aside the report of commissioners of partition and distribution, two dollars; for each decree refusing order of sale or confirmation of sale, fifty cents; for each decree removing an executor, administrator or guardian, one dollar, to be paid by the executor, administrator or guardian; for each fiat or certificate granted by him, fifty cents; for each continuance, ten cents; for each order made by him, except otherwise provided for, fifty cents; they shall be allowed a commission of one-half of one per cent. upon the actual cash receipts of

each executor, administrator or guardian, upon the approval of his exhibits and the final settlement of his accounts, but no more than one such commission shall be charged on any amount received by any executor, administrator or guardian; for every case of lunacy disposed of by him, three dollars, to be paid by the county; for each hearing, detaining and rendering a final order on each motion submitted to him, ten cents; for every case of misdemeanor or habeas corpus finally disposed of by him, five dollars, to be paid by the defendant, if convicted; for presiding over the County Commissioners' Court, ordering elections and making returns, and transacting all other county business not otherwise provided for, such sum as shall be allowed by the County Commissioners' Court. There shall be allowed to the County Judge such books, stationery and office furniture as may be necessary for him in the discharge of the duties of his office, and the same shall be paid for out of the county treasury on the order of the County Commissioners' Court.

Sec. 7. The County Attorneys shall be entitled to the following fees and no others, to-wit: For every conviction under the laws against gaming, where no appeal is taken, or when on appeal the judgment is affirmed, fifteen dollars, to be paid by the defendant as other costs; in all other cases of misdemeanor where the defendant is convicted and no appeal is taken, or when upon appeal the judgment is affirmed, ten dollars, to be paid by defendant as other costs; for all convictions of a capital felony, when the defendant fails to appeal, or escapes after appeal is taken, before final judgment of the Appellate Court, or when upon appeal the judgment is affirmed, and in all cases of felonious homicide, above and including the grade of manslaughter, fifty dollars; and in all other convictions of felony, when the defendant fails to appeal, or escapes after appeal is taken, before final judgment of the Appellate Court, or when upon appeal the judgment is affirmed, thirty dollars, to be paid by the State; on all fines, forfeitures, or money collected for the State or county, recovered by him, the County Attorney shall be entitled to ten per cent. of the amount so collected; for services rendered in the examining courts in every felony case, where the party is finally convicted, and no appeal is taken, or where upon appeal the judgment is affirmed, ten dollars; for representing the State in each case of habeas corpus where the defendant is charged with a felony, twenty dollars, to be paid by the State; provided, that only one fee shall be paid in each case of habeas corpus, without regard to the number of defendants. District Attorneys shall be allowed the same fees and commissions as are herein allowed to County Attorneys for all services by them performed. The District Attorney shall also receive a salary of five hundred dollars per annum, to be paid by the State.

Sec. 8. Clerks of the District Court shall receive the following fees: For each writ or citation, seventy-five cents; for docketing each cause, to be charged but once, twenty cents; for filing each paper in a cause, fifteen cents; for each appearance, to be charged but once, fifteen cents; for entering each continuance, twenty cents; for docketing each motion or rule, fifteen cents; for entering each final order, decree or judgment upon a motion or rule, one dollar; for swearing each witness, ten cents; for administering each oath or affirmation without certificate, fifteen cents; for administering each oath or affirmation, and authenticating the same with the impress of the seal of his office, fifty cents; for each subpoena, twenty-five cents; for each additional name inserted in each

subpoena, fifteen cents; for writing and taking a bond in every case where a bond is required (except bond for costs), one dollar and fifty cents; for swearing and empanneling a jury, thirty-five cents; for receiving and recording the verdict in each case tried by a jury, thirty-five cents; for assessing the damages in each case not tried by a jury, fifty cents; for each commission to take deposition, seventy-five cents; for taking depositions, each hundred words, fifteen cents; for swearing witness, with certificate and seal, fifty cents; for each scire facias, including copy thereof, one dollar; for entering each interlocutory judgment, seventy-five cents; for entering each final judgment, seventy-five cents; for entering each decree, exceeding two hundred words, each one hundred words, fifteen cents; for taxing the bill of costs, in each case, with copy thereof, twenty-five cents; for each execution, seventy-five cents; for each order of sale, or venditioni exponas, seventy-five cents; for each writ of possession or restitution, seventy-five cents; for entering and recording the return of each writ of execution, etc., seventy-five cents; for copies of petition, interrogatories, cross-interrogatories, and of all records or papers in their offices, with certificate and seal, each one hundred words, twenty cents; for transcript in any case, when appeal or writ of error is taken, with certificate and seal, each one hundred words, twenty cents; for each certificate to any fact or facts contained in the records of his office, with certificate and seal, seventy-five cents; for entering each order not otherwise provided for, seventy-five cents; for taking the acknowledgments or proof of any deed, bond, power of attorney, or other instrument of writing for registration, with certificate and seal, fifty cents; and for taking the acknowledgment of a married woman to any such document, one dollar; for making out and transmitting the records and proceedings of each cause, civil and criminal, to County or Justice court, twenty cents per one hundred words; provided, that the Clerk shall receive no pay for motions or judgments on motions for costs, or for approving bond for costs; and provided, further, that the judgments containing several orders shall not be considered as more than one judgment, for which charges may be made; for copy of petition, including certificate and seal, each one hundred words, twenty cents; for each recognizance, entry of record, seventy-five cents; for each capias, or other original writ in a criminal cause, fifty cents; for making out and transmitting the mandate or judgment of the District Court, upon an appeal from the County Court, one dollar. There shall be allowed to said Clerk such books, stationery, and office furniture as may be necessary for his office, to be paid on the order of the County Court, out of the County Treasury, and a suitable office shall also be provided by the County Court at the expense of the county. For filing a record in a cause appealed to the District Court, fifty cents. That the District Clerk shall receive, in addition to the fees herein allowed, such sum as may be allowed by the Commissioners' Court, not to exceed three hundred dollars, for the care and preservation of the records of his office, keeping of the necessary indexes, and other labor of a like class, to be paid by the county.

Sec. 9. Clerks of the County Court shall receive the following fees:

Clerks' Costs in Probate Matters.

For filing each paper in relation to estates of decedents or wards, ten cents; for issuing notices, including copies for posting or publication, seventy-five cents; for docketing each application, complaint, petition or

proceeding, to be charged but once, ten cents; for each writ or citation, including copy thereof, fifty cents; for each copy of an application, complaint or petition, that is required to accompany a writ or citation, with certificate and seal, for each one hundred words, ten cents; for making and attesting letters testamentary or of administration or guardianship, fifty cents; for entering each judgment in relation to estates of decedents or wards, fifty cents, and ten cents per hundred words for all in excess of two hundred words; for recording all papers required to be recorded by them in relation to estates of decedents or wards, for each one hundred words, not otherwise provided for, ten cents; for administering oath to an executor, administrator or guardian, ten cents; for administering oath or affirmation in all other cases, and giving certificate with seal when necessary, twenty-five cents; for each writ or citation, including copy thereof, fifty cents; for docketing each cause, to be charged but once, ten cents; for filing each paper in a cause, ten cents; for each appearance, to be charged but once, ten cents; for entering each continuance, ten cents; for docketing each motion or rule, ten cents; for entering each final order, decree or judgment, upon a motion or rule, except for costs, not otherwise provided for, fifty cents, and ten cents for each one hundred words in excess of two hundred words; for swearing each witness, ten cents; for administering each oath or affirmation, without certificate, ten cents; for administering each oath or affirmation, with certificate and seal, fifty cents; for each subpoena, twenty-five cents; for each additional name inserted in each subpoena, ten cents; for writing, taking and approving a bond in every case where a bond is required, except bonds for costs, one dollar; for swearing and empanneling a jury, and receiving and recording a verdict, fifty cents; for assessing the damages in each case not tried by a jury, fifty cents; for each dismissal or entry of non-suit, twenty-five cents; for each commission to take depositions, fifty cents; for taking depositions each one hundred words, fifteen cents; for swearing witness to deposition, with certificate and seal, fifty cents; for each scire-facias, including copy thereof, one dollar; for entering each interlocutory judgment, fifty cents; for entering each final judgment, fifty cents, and ten cents for every one hundred words in excess of two hundred words; for taxing the bill of costs in each cause, including copy thereof, ten cents; for each execution, fifty cents; for each order of sale or venditioni exponas, seventy-five cents; for each writ of possession or restitution, fifty cents; for entering and recording the return of each writ of execution, possession, etc., fifty cents; for copies of petition, interrogatories, cross interrogatories and of all records or papers in their offices, with certificate and seal, each one hundred words, where not otherwise provided for, fifteen cents; for transcript in any case where appeal or writ of error is taken, with certificate and seal, each one hundred words, fifteen cents; for each certificate to any fact or facts contained in the records of his office, with certificate and seal, where not otherwise provided for, fifty cents; for entering each order, not otherwise provided for, ten cents; for each acknowledgment, fifty cents; for each acknowledgment of husband and wife, one dollar and fifty cents; for each declaration of citizenship, one dollar; for each letter of citizenship, with decree, two dollars and fifty cents; for recording each mark and brand, twenty-five cents; for issuing each marriage license, one dollar, and recording the same, fifty cents. It shall be the duty of the County Judge, at each term of the court, to enquire into and examine the amount of labor actually and

necessarily performed by the Clerk, in the care and preservation of the records of his office, in the making and keeping of the necessary indexes thereto, and other labor of a like class, and to allow said Clerk a reasonable compensation therefor, not to exceed the fees therein allowed for services requiring a like amount of labor, to be paid out of the County Treasury, upon the sworn account of said Clerk, approved by the County Judge, not to exceed one hundred dollars per annum. There shall be allowed to said Clerk of the County Court, such books, stationery and office furniture as may be necessary for his office, to be paid on the order of the Commissioners' Court, out of the County Treasury, and a suitable office shall also be provided by the Commissioners' Court at the expense of the county. All clerks and their deputies are hereby prohibited from charging any fees or commissions for writing deeds, mortgages, bills of sale, or any other conveyance for any person, unless they pay a tax as conveyancers. There shall be allowed for the use of the County Clerk such books and stationery as are necessary for his office, to be paid for out of the County Treasury; provided, the Clerk shall receive no pay for motions or judgments for costs, or for approving bond for costs, and that judgments containing several orders shall not be considered as more than one judgment for which charges may be made. For making out and transmitting the mandate or judgment of the County Court, upon an appeal from the Justice's Court, one dollar; for all ex-officio services in relation to roads, bridges and ferries, issuing jury script, and all other public services not otherwise provided for, such sum as may be allowed by the Commissioners' Court, not to exceed one hundred dollars per annum.

Sec. 10. Fees of County and District Clerks in criminal cases: For issuing each *capias* or other original writ, seventy-five cents; for entering each appearance, fifteen cents; for docketing cause to be charged but once, twenty-five cents; for swearing and empanneling a jury, and receiving and recording the verdict, fifty cents; for swearing each witness, ten cents; for issuing each subpoena, twenty-five cents; for additional names, fifteen cents each; for issuing each attachment, fifty cents; for entering each order not otherwise provided for, fifty cents; for entering judgment, fifty cents; for filing each paper, ten cents; for entering each continuance, twenty-five cents; for entering each motion, or rule, ten cents; for entering each recognizance, fifty cents; for entering each judgment *nisi*, fifty cents; for entering each indictment or information, ten cents; for each commitment, one dollar; for each transcript on appeal, for each one hundred words, ten cents; for each copy of indictment or information, for each hundred words, ten cents; for felony cases tried in the District Court or County Court, to be paid by the State, ten dollars.

Sec. 11. Sheriffs shall receive the following fees: For serving each original writ or citation in a civil suit, and a copy of petition, one dollar and fifty cents; for executing each warrant of arrest or *capias*, or making arrest without warrant, one dollar; for each mile he may be compelled to travel in executing criminal process or summoning or attaching witness, five cents; for traveling in the service of any process, not otherwise provided for, the sum of five cents for each mile going and returning, computing the distance from the place of service to the place of return; if two or more persons are mentioned in the writ, he shall charge for the distance actually and necessarily traveled in the service of the same; these fees in cases of felony to be paid by the

State, where the defendant is brought to trial; for summoning each witness in the County or District Court, fifty cents; in cases of felony to be paid by the State, where the defendant is brought to trial; for summoning a jury in a felony case, to be paid by the State where the defendant is brought to trial, two dollars; for serving each scire facias, one dollar; for levying and returning each writ of attachment or sequestration, two dollars and fifty cents; for serving each citation and writ of garnishment, one dollar; for each cause tried in the District or County Court, a jury fee shall be taxed for the Sheriff, fifty cents; for taking and approving each bond, and returning the same to the proper court when necessary, one dollar; for serving any writ, not otherwise provided, one dollar; for each commitment or release, one dollar; for levying each execution, one dollar and fifty cents; for returning each execution, seventy-five cents; for executing and returning each writ of possession and restitution, three dollars; for posting the advertisements for sales under execution, or any order of sale, one dollar; for endorsing the forfeiture of any bond required to be endorsed by him, fifty cents; for executing a deed to each purchaser of real estate under an execution, or an order of sale, two dollars; for executing a bill of sale to each purchaser of personal property, under an execution or an order of sale, when demanded by the purchaser, one dollar; for making money on an execution or an order of sale, when the same is made by a sale, for the first hundred dollars, four per cent.; for the second hundred dollars, three per cent.; for all sums over two hundred dollars, two per cent.; when the money is made without a sale, one-half of said rate shall be allowed; for executing each death-warrant, fifty dollars, to be paid by the State; for removing a prisoner, for each mile going and returning, including guards and all other expenses, when traveling by railroads, fifteen cents; traveling otherwise, twenty-five cents; in cases of felony, to be paid by the State when the defendant is brought to trial; for attending a prisoner on habeas corpus, for each day, two dollars, and mileage as above when moving him out of the county; for taking care of property levied on by a writ of execution, sequestration or attachment, all reasonable and necessary expenses, to be taxed and allowed by the court to which such writ is returnable; for conveying a witness attached by him to any court out of his county, his actual, necessary expenses by the nearest practicable public conveyance, the amount to be stated by him under oath, and approved by the Judge of the court issuing the attachment; for summoning jurors in the District Court and County Court, serving all election notices, notices upon overseers of roads, attending the District and County Courts, and doing all other public business, not otherwise provided for, such sum as may be allowed by the Commissioners' Court, not to exceed two hundred dollars per annum, to be paid out of the County Treasury; and for every day the Sheriff or his deputies shall attend the District and County Courts, he shall receive two dollars a day, to be paid by the county for each day that the Sheriff, by himself or a deputy, shall attend said courts; for keeping and feeding from one to four prisoners, he shall be paid not exceeding forty-five cents per day for each prisoner; but whenever the number of prisoners in jail shall be more than four, then the pay for feeding prisoners shall not exceed forty cents each per day; this shall be inclusive of all fees or allowances to Sheriffs for the support, maintenance, keeping and feeding prisoners; for guards necessarily employed in the safe keeping of prisoners, one dollar and fifty

cents per day for every guard so employed by the Sheriff; and there shall not be anything allowed for the board of such guards, nor shall any allowance be made for jailor or turnkey.

Sec. 12. Justices of the Peace shall receive the following fees: For each citation or writ in civil suits, fifty cents; for each warrant in criminal cases, seventy-five cents; for taking each recognizance in a criminal case, fifty cents; for taking each bond not otherwise provided for, fifty cents; for each subpoena for one witness, twenty-five cents; for every additional name inserted in a subpoena, ten cents; for docketing each cause, ten cents; for each continuance, twenty cents; for swearing each witness in court, ten cents; for administering an oath or affirmation without a certificate, ten cents; for administering an oath or affirmation with a certificate thereof, twenty-five cents; for administering the oath, taking bond, and issuing a writ of attachment or sequestration, one dollar and fifty cents; for causing a jury to be summoned, swearing them, and receiving and recording their verdict, in each cause tried by a jury before them, fifty cents; for each order in a cause, twenty-five cents; for each final judgment, fifty cents. For each application to set aside a judgment by default or of non-suit, or for a new trial, with the final order or judgment of the Justice thereon, fifty cents; for taking the acknowledgment for a stray, in each cause, fifty cents; for taking each appeal bond, twenty-five cents; for each commission to take deposition of one or more witnesses, fifty cents; for copy of interrogatories, or cross interrogatories, for each hundred words, ten cents; for making out and certifying a transcript of the entries on his docket, and filing the same with the original papers of the cause in the District Court, in each case of appeal or certiorari, one dollar and fifty cents; for each execution, sixty cents; for each writ of possession or restitution, seventy-five cents; for receiving and recording the return on each execution, writ of possession or restitution, thirty cents, if a levy is returned; ten cents, if not; for each search-warrant, thirty cents; for each commitment, fifty cents; for taxing costs, including copy thereof, in each cause, ten cents; for every certificate not otherwise provided for, twenty-five cents; for making copies of any papers or records in his office, including certificate, for any person applying for same, for each hundred words, ten cents; for taking down the testimony of witnesses, swearing them, taking the voluntary statement of persons accused, certifying and returning the same to the proper court, in examinations for offenses, for each hundred words, if collected from the defendant, twenty cents; for summoning a jury, and all other business connected with an inquest upon a dead body, including certifying and returning the same to the proper court, five dollars, to be paid out of the County Treasury.

Sec. 13. Constables shall receive the following fees: For serving each writ or citation in civil suit, seventy cents; for serving each warrant in a criminal cause, one dollar; for serving each notice for the taking of depositions and copy of interrogatories, seventy cents; for executing a search warrant, one dollar; for levying and returning each writ of attachment or sequestration, one dollar and fifty cents; for summoning each witness, fifty cents; for committing a person to jail, seventy-five cents; for taking each bond, one dollar; for levying each execution, seventy cents; for executing writ of possession or restitution, one dollar; For returning each execution, writ of possession or restitution, forty cents; for summoning a jury in a Justices' Court, one dollar; for summoning a jury to hold an inquest before a Coroner, to be paid

by the county, two dollars and fifty cents; for advertising sale under execution on any order of sale, seventy cents; for making title to purchaser of real estate under execution or any order of sale, two dollars; for making title to purchaser of personal property under execution or order of sale, when demanded by the purchaser, fifty cents; for making money under execution or order of sale, when a sale is made, four per centum on the amount; when money is made without a sale, two per cent. on the amount; for conveying a prisoner to jail, including guard and other expenses, twenty-five cents a mile in going and returning; if by railroad, fifteen cents; for taking care of property levied on by a writ of execution, sequestration or attachment, all reasonable and necessary expenses, to be taxed and allowed by the court to which such writ is returnable. For all services done by Constables in business connected with the County and District Courts, they shall only receive the same fees as are allowed Sheriffs. For each mile actually and necessarily traveled in executing criminal process or making arrest without warrant and summoning witnesses in criminal cases, five cents going and returning, computing the distance from the place of service to the place of return. If two or more persons are mentioned in the writ, he shall charge for the distance actually traveled in the service of the same.

Sec. 14. Each Commissioner shall receive three dollars per day, for each day he is engaged sitting as a member of term of the County Commissioners' Court; provided, no per diem shall be paid said Commissioners for more than one special term per month.

Sec. 15. County Treasurers shall receive the following fees: The County Treasurer shall receive not more than two and one-half per cent. on all sums received by him; and not more than two and a half per cent. on all sums paid out by him; but shall receive not more than one per cent. for receiving and paying out monies belonging to the school fund. The commissions of the County Treasurer shall be fixed by the County Commissioners' Court, within the limits prescribed in this act; provided, that the County Treasurer shall receive no commissions for receiving money from his predecessor or for paying over money to his successor in office; provided, further, that the compensation allowed to any County Treasurer shall not exceed three thousand dollars per annum, in any county of this State.

Sec. 16. District and County Surveyors shall receive the following fees: For inspection and recording of the field notes and plat of a survey for any tract of land over one-third of a league, three dollars; for one-third of a league, two dollars; for any quantity of land less than one third of a league, one dollar; for each examination of papers and records in his office, at the request of any person wishing to examine them, twenty-five cents; for copies of all field notes and plats, or any other papers or records in his office, for each hundred words, including certificate, twenty cents; for surveying any tract of land, for each English lineal mile actually run, including all expenses of making the survey and returning the plat and field notes of survey, three dollars a mile.

Sec. 17. Inspectors of Hides and Animals for each county or district shall receive the following fees: For each hide of neat cattle and animal inspected, ten cents each for the first one hundred so inspected for any one person at one time; and for the next one hundred so inspected, eight cents each; and for any number of two hundred so inspected, three cents each; for each horse, mule or cattle imported from Mexico,

five cents; and for each hide of neat cattle imported from Mexico, and inspected, five cents; to include hides of cattle and not those of sheep or goats; and such other fees as may be designated by law relating to the inspection of hides and animals.

Sec. 18. Notaries Public shall receive the following fees: For protesting a bill or note for non-acceptance or non-payment, registering and seal, two dollars and fifty cents; and for each notice thereof, fifty cents; for protest in all other cases, twenty cents for each hundred words, and fifty cents for certificate and seal; for taking the acknowledgments or proof of any deed or any other instrument of writing, for registration, with certificate and seal, fifty cents; for administering an oath or affirmation, with certificate and seal, twenty-five cents; for taking the acknowledgment of a married woman to a deed, or any other instrument of writing, authorized to be executed by her, with certificate and seal, one dollar; for all certificates not otherwise provided for, with seal, fifty cents; for all notarial acts not otherwise provided for, fifty cents; for copies of all records and memorandums in their offices, with certificate and seal, fifty cents, if less than two hundred words, and fifteen cents for each hundred words in excess of two hundred words.

Sec. 19. The several officers and persons authorized to perform any of the services named in this section, shall be entitled to the fees herein allowed for such services, namely: For taking the acknowledgment or proof of any deed, or any other instrument of writing, for registration, with certificate and seal, fifty cents; for taking the acknowledgment of a married woman to a deed, or any other instrument of writing, authorized to be executed by her, with certificate and seal, one dollar; for taking the deposition of a witness, in answer to interrogatories or cross-interrogatories, under a commission, for each hundred words, fifteen cents; for swearing the witness to such answers, making certificates thereof, with seal, and all other business connected with taking such depositions, fifty cents; for recording any instrument required by law to be recorded, not otherwise provided for, fifteen cents for each hundred words, including the certificate and seal.

Sec. 20. The fees hereinbefore mentioned pertaining to suits or actions in court, shall be taxed and allowed in the bill of costs against the party cast in each suit or action wherein any such services shall be rendered; but no copy not required by law shall be allowed in the bill of costs, and if any party or his attorney shall take out copies of his own pleadings, or of papers filed by him in any cause, no charge for such copies shall be allowed in the bill of costs.

Sec. 21. No Clerk of the Court or Justice of the Peace shall be allowed to charge any practicing attorney of this State any fee for the examination of any papers or records in his office.

Sec. 22. Every Clerk of a Court, County Judge, Sheriff, Justice of the Peace and Constable in this State shall keep a fee book, and shall enter therein all fees charged for services rendered; which book shall at all times be subject to the inspection of any person wishing to see the account of fees therein charged.

Sec. 23. None of the fees hereinbefore mentioned shall be payable by any person whatsoever, until there be produced, or ready to be produced, unto the person owing or chargeable with the same, a bill or account in writing containing the particulars of such fees, signed by the Clerk or officer to whom such fee shall be due, or by whom the same is charged.

Sec. 24. In all cases where any person shall be presented or indicted by the grand jury, and shall be discharged from such presentment or indictment, neither the Clerks nor the Sheriffs shall charge fees for the same, but if the party or parties so presented or indicted shall be convicted, the Clerk or Sheriff shall charge him, her or them, with all the fees accruing thereon. And in all cases where parties are convicted of felonies, judgment shall be rendered against said parties for all costs accruing in such cases, and execution shall issue thereon, in the name of the State.

Sec. 25. If any of the officers herein named shall demand and receive any other or higher fees than are prescribed in this act, for any services herein mentioned, he shall be liable to the party aggrieved for fourfold the fees so unlawfully demanded and received, to be recovered in any court of competent jurisdiction; and it is hereby made the duty of the Sheriff, Clerks of the District and County Courts, and Notaries Public of the several counties of this State, to keep posted up, at all times, in a conspicuous place in their respective offices, a complete list of the fees herein allowed to be charged by them respectively.

Sec. 26. It shall be lawful for any Justice of the Peace, or Clerk of the Supreme, District or County Court, within this State, when any suits are determined in their respective courts, and the fees are not paid by the party from whom they are due, to make out executions for the same, directed to any lawful officer of the county where the party resides, and it shall be lawful for the Clerks of the County Courts to make out executions in like manner for the fees that may become due the officers of said courts, directed to any lawful officer of the proper county; and the officers to whom any of such executions shall be directed shall levy and proceed with the same as in other cases; provided, that a bill of costs shall in all cases accompany such execution; and provided, further, that this section shall not apply to costs due by administrators, guardians or executors.

Sec. 27. In all cases where a citation or other process is required to be served by publication in a newspaper, the officer whose duty it may be to make such service, shall be furnished with the printer's fee for such publication before he shall be required to have such service made.

Sec. 28. It shall be lawful for the Clerk of any court, or Justice of the Peace to require security for costs, before issuing any process in any suit about to be commenced, unless the party applying for such process, his agent or attorney, shall make oath that the party so applying is unable to give such security.

Sec. 29. That all laws and parts of laws in conflict with the provisions of this act, for prescribing other and different fees to any of the officers herein named, are hereby repealed.

Sec. 30. That for all services performed since the seventeenth day of April, 1876, by any of the officers herein named, they shall receive the same fees as are herein provided; provided, however, that this section shall not prevent the officer from charging the rates heretofore allowed by law, for any service performed by him before the passage of this act.

Sec. 31. The fact that there is no law in force fully defining the fees of County Clerks and County Judges, and other officers, creates an emergency that, and it is hereby declared that, this act shall be in force and effect from and after its passage.

Approved August 23, 1876.

Takes effect ninety days after adjournment.

CHAPTER CLXV.—An Act to encourage stock-raising and for the protection of stock-raisers.

Section 1. Be it enacted by the Legislature of the State of Texas, That each organized county of this State shall be created an inspection district for the inspection of hides and animals; and that an Inspector of Hides and Animals shall be elected by the qualified voters of each county; and that, in case of a vacancy, the Sheriff of the county shall be ex-officio Inspector until an Inspector shall be appointed by the County Commissioners' Court, which power of appointment of an Inspector, in case of a vacancy in the office, is hereby vested in said court.

Sec. 2. Every Inspector so appointed shall hold his office for the term of two years; and in case of a vacancy in the office of Inspector of any district, the County Court of such district shall immediately order an appointment therein, and the Inspector so appointed shall hold his office for the unexpired portion of the term for which his predecessor was appointed.

Sec. 3. Every person appointed to the office of Inspector of Hides and Animals, before entering upon the duties of his office, shall enter into a bond, with two or more good and sufficient securities, to be approved by the County Commissioners' Court of the county constituting his district; which bond shall be in a sum to be fixed by said County Commissioners' Court, which sum shall be not less than one thousand dollars nor more than ten thousand dollars, payable to the County Judge, conditioned that he shall well and truly perform the duties of his office in accordance with the provisions of this act; and he shall also take and subscribe the oath of office prescribed by the Constitution, which shall be endorsed on or attached to said bond, together with the certificate of the officer administering the oath, which bond and oath shall be deposited and recorded in the office of the Clerk of the County Court of the county. The bond herein provided for shall not be void for want of form, or on the first recovery; but may be sued on from time to time, in the name or names of any person or persons injured by a breach thereof, until the whole penalty shall have been recovered.

Sec. 4. Every Inspector shall have power to appoint as many deputies as shall be necessary to perform the duties imposed on them by this act, and such deputies shall have the same power and authority to perform the duties of their office as their principal; and the Inspector shall require bond and security of their deputies for the faithful performance of their duties; and the said deputies shall, before entering upon their duties, take and subscribe the oath prescribed by the Constitution, which, together with the certificate of the officer administering the same, shall be endorsed upon the bonds; and he shall receive a certificate of his appointment as deputy, signed by the Inspector, which shall be recorded in the office of the County Clerk.

Sec. 5. The appointment of each deputy shall be in writing, with the seal of the Inspector thereon, and shall with their bonds and oaths of office be recorded by the Clerk of the County Court of the county constituting their district, and the Inspector shall be responsible to any persons injured thereby, for the official acts of each of their deputies, and they shall have the same remedies against their deputies and their

securities as any person can have against the Inspectors and their securities.

Sec. 6. The County Commissioners' Court shall furnish to each Inspector the necessary seals of office, having upon them the words, "Inspector of Hides and Animals, ——— County, Texas," the blank to be filled with the name of the proper county, which seals shall be of the design selected by the Governor, and now in use by Inspectors of Hides and Animals in this State. Each Inspector and Deputy Inspector shall certify all his official acts with the seal herein provided for, and shall deliver his seal of office, and all books, papers or records relating to his office, to his successor.

Sec. 7. It shall be the duty of the Inspector, in person or by deputy, to faithfully examine and inspect all hides or animals known or reported to him as sold, or as leaving or going out of the county, for sale or shipment, and all animals driven or sold in his district for slaughter, packeries or butcheries; and the Inspector shall keep a record, in a well bound book, in which he shall record a true and correct statement of the number, ages, marks and brands of all animals inspected by him, and the number, mark and brand of all hides inspected by him, and whether the same are dry or green, and the name or names of the vendor or vendors, and of the purchaser or purchasers thereof; and he shall return a certified copy of all entries made in such record, during each month, to the Clerk of the County Court of the county, on the last day of each month, which report shall be filed among the records of the County Court. The book of records herein provided for shall at all times be open for the inspection of any person interested therein; provided, this act shall not be so construed as to include sheep, goats, swine or hides of either, nor to involve the re-inspection of salted hides in packeries or other slaughter houses, taken from animals previously inspected and returned, as provided in this section.

Sec. 8. No Inspector shall grant any certificate of inspection of any unbranded hides or animals; or of hides or animals upon which the marks or brands cannot be ascertained, and shall prevent the same from being taken or shipped out of the county, unless the same be identified by proof or by exhibiting a bill of sale duly signed by the owner of such animal and acknowledged before some officer authorized to authenticate instruments for records in this State.

Sec. 9. Every Inspector shall have power to, and may seize and sequester all unmarked or unbranded calves or yearlings; and all calves or yearlings freshly marked or branded, and on which the fresh marks or brands are unhealed, which are about to be slaughtered, or driven, or shipped out of the county, unless such animals are accompanied by the mothers thereof, or are identified by the presentation of a bill of sale from the person proved to be the owner thereof, signed by him or his legally authorized agent, and acknowledged before some officer authorized to authenticate instrument for record in this State.

Sec. 10. Every Inspector shall have power to, and may seize and sequester all unbranded animals or hides, and animals or hides upon which the mark or brand cannot be ascertained, which are about to be taken or shipped out of the county, or which animals are about to be slaughtered, unless such animals or hides are identified as provided in section nine of this act; and the Inspector shall have power to sell the same at public auction to the highest bidder, after having given ten days' notice of such sale and no owner for such animals or hides being

found. The Inspector shall be entitled to retain one-fourth of the net proceeds of such sale, after deducting therefrom all expenses connected therewith, and he shall immediately pay the remaining three-fourths thereof into the County Treasury, and all sums so paid in shall be placed to the credit of the general fund of such county.

Sec. 11. Every person who shall buy or drive any animal or animals for sale or shipment, out of any county in this State, or who shall buy or drive any animal or animals for slaughter, shall, at the time of purchasing and before driving the same, procure a bill of sale from the owner or owners thereof, or from his or their legally authorized agent, which bill of sale shall be in writing, properly signed and acknowledged before some officer authorized to authenticate instruments for record in this State. Such bill of sale shall distinctly enumerate the number, kind and age of animals sold, together with all the marks and brands discernible on said animals; said animals shall, before leaving the county in which they have been gathered, be inspected by the Inspector of such county or his deputy.

Sec. 12. Every person who shall purchase any hides of cattle, shall at the time of purchasing the same, obtain from the owner thereof, or from his legally authorized agent, a bill of sale in writing, certified to by the Inspector or by any officer authorized to take acknowledgments, which bill of sale shall recite in full the marks and brands of each hide, the weight thereof and whether the same is dry or green.

Sec. 13. Whenever an Inspector shall have inspected any animal or animals, as herein provided, he shall on the presentation of a bill of sale or power of attorney, from the owner or owners of such animal or animals, or his or their agent duly authorized in writing, which bill of sale, power of attorney or authority of agent shall be in writing, duly signed and acknowledged by the person executing the same, before some officer authorized to authenticate instruments for record in this State, and on payment to said Inspector of the fees hereinafter provided for, deliver to the purchaser of the animals mentioned in such bill of sale or power of attorney, or his agent, a certificate, setting forth that he has carefully examined and inspected such animal or animals, and that said purchaser has, in all respects complied with the provisions of this act, which certificate shall not be complete until the same and bill of sale herein provided for shall be recorded in the office of the Clerk of the County Court of the county, and be certified to, and by said Clerk under his hand and seal. Such certificate shall be then delivered to the purchaser or purchasers, and shall protect him or them from the payment of inspection fees in any other district in the State for the animals therein described, except the county from which the same may be exported.

Sec. 14. Any person or persons driving cattle in his or their own mark and brand shall be entitled to the certificate of inspection hereinbefore provided for, on payment of the fees to the Inspector hereinafter provided for, and on presentation to the Inspector of the certificate of the Clerk of the County Court of the county where such mark and brand is recorded, to the effect that the mark and brand named therein is duly recorded in his office as the mark and brand of the person so driving such cattle.

Sec. 15. Any person or persons who shall drive any cattle to market beyond the limits of this State, shall, before removing such cattle from the county where the same are gathered, place upon each and every

animal so to be driven a large and plain road brand, composed of any device he may choose; which brand shall be branded on the left side of the back, behind the shoulder; and every person or persons using or causing to be used any road brand, shall place the same on record as in the case of other brands, in the county from which the animals upon which said brand is to be placed are to be driven, and before their removal from such county.

Sec. 16. Any person intending to drive or ship any animal or animals to the Republic of Mexico, may ship the same from any point on the coast of Texas, or may drive or ship them across the Rio Grande river at any point where a custom-house of the United States is located; and shall not drive or ship such animal or animals across the Rio Grande at any other point or points; and he shall cause all such animals to be inspected by the Inspector of the district in which the point of shipment or place at which they are to be driven across said river is situated; such inspection shall be made before shipment from the State or passage across said river of said animals.

Sec. 17. Every Inspector inspecting animals, as required by Section 16 of this act, shall be governed in such inspection by the provisions of this act defining the duties of Inspectors in ordinary cases, and shall be entitled to charge and collect, for the services prescribed by said Section 16, the sum of ten cents for each animal inspected by him; which sum shall be paid by the person or persons for whom the inspection be made.

Sec. 18. Whenever a drove of cattle may be passing through any county, it shall be the duty of the Inspector, if called upon so to do by any person, to stop and inspect said drove without any unnecessary detention of the same; and he shall exercise the same powers and perform the same duties in the inspection of said cattle as are prescribed in Sections 7, 9 and 10 of this act; provided, that if any cattle be found in said drove not included in the certificate of the Inspector of the county in which the drove may have been gathered, the fees of the Inspector shall be paid out of the proceeds of the sale of said cattle; but if no cattle shall be found in said drove, except those covered by the Inspector's certificate, then the Inspector's fee shall be paid by the person at whose instance and request said drove may be inspected.

Sec. 19. That the hides of all cattle, including all ages and sexes of said animals, which shall be imported into this State, from the United States of Mexico, shall be inspected by the Inspector of Hides and Animals of any county or district into which the same may be introduced or imported, for which service said Inspector shall receive the sum of five cents for each hide so inspected; and should the importer of said hides fail or refuse to pay the inspection fees, as above provided for, the inspector is hereby authorized to retain possession of said hides, and to sell a sufficient number of said hides, after public notice of three days, to the highest and best bidder, to pay said inspection fees, and all necessary expenses incurred in connection therewith. That horses and mules imported from Mexico into this State, shall be inspected in accordance with the provisions of the preceding section, and with like authority to retain and sell as therein provided, and for each horse or mule, so inspected, the Inspector shall receive ten cents. That should an Inspector of Hides and Animals find among hides imported from Mexico, any hide or hides, which from the brand or from other evidence, to-wit: Brands blurred, blotched or defaced by the use of chemicals or by other agents or means, or brands recently made, he has reasons to believe that

said hide or hides have been stolen from the lawful owner, it shall be his duty to separate said hide or hides from the others undergoing inspection, and to notify any person he believes to be interested therein to come forward and institute suit for the recovery of the same; and should no person appear to claim said hide or hides, the Inspector shall within twenty-four hours make oath before the County Judge of the county, or before a Justice of the Peace of the county, that he has reason to believe that said hides have been stolen; whereupon the said County Judge or Justice of the Peace shall take possession of said hide or hides, and shall issue a citation, directing the importer or party claiming the same to appear before him at his office within a time specified, not to exceed twenty-four hours, to show that said hide or hides have been legally acquired by him or them. And should said importer or claimant make proof that he is the lawful owner of said hide or hides, by showing a bill of sale from the owner of the same, or his legally authorized agent, and by showing a complete chain of transfer or title from the original owner of the brand to himself, or his firm, as the case may be, the County Judge or Justice of the Peace shall direct that the same be delivered to said importer or claimant, upon his paying the inspection fees. That should the said importer or claimant of said hide or hides, fail to establish his claim as the lawful owner of the same, or to any number of said hides so seized, it shall be the duty of the County Judge or the Justice of the Peace to direct that said hide or hides shall be sold at public auction by the Inspector of Hides and Animals or his deputy, after a notice of ten days, published in a newspaper, should there be one published in said county; or by notice in writing, posted at the court-house and two or more other places in said county, and the said hide or hides shall be sold to the highest and best bidder. That the Inspector of Hides and Animals shall retain twenty-five per centum of the purchase money, after having deducted and having paid all necessary expenses incurred by reason of said sale, and he shall deposit the remainder of said purchase money with the County Treasurer and take his receipt therefor; and said County Treasurer shall place one-half of said sum of money to the credit of the school fund, and the other to the credit of the jury fund of said county. That should any person appear, either by himself, his agent or attorney, and claim any hide or hides imported from Mexico, at any time before said hide or hides shall have been sold as above directed, and should said claim be established before the County Judge or a Justice of the Peace of said county, the said hide or hides shall be delivered to the said claimant, and all costs accruing therein shall be paid by the importer; provided, that at any time before proceedings shall have been commenced as above directed, the importer may be permitted to pay the lawful owner, his agent or attorney, for any hide or hides imported by him from Mexico, and presented in any county of this State for inspection.

Sec. 20. Any person or persons, having marks and brands recorded in the office of the Clerk of the County Court may file with the Inspector a list of his recorded marks and brands, certified by the said Clerk under his seal, to which certified list shall be attached the names of any person or persons whom the owner of said stock may wish to authorize to gather, drive, or otherwise handle his stock; and the filing of said list with the Inspector shall be deemed sufficient authority to the person or persons named in such list to gather, drive, or otherwise handle any animals of the marks and brands therein described.

Sec. 21. In all cases where the counter-branding of any cattle shall be deemed necessary or expedient, the person so counter-branding shall counter-brand the existing brand of the animal, by which the owner thereof is then known, or by which it is then claimed and owned, by branding below the said brand its fac-simile, that is, similar letters, characters, or numbers, as the case may be; and he shall also place on said animal the brand of the then owner thereof; but no person shall change or alter the ear marks of any animal, but in counter-branding, shall leave the ears bearing the same mark or marks as before counter-branding.

Sec. 22. No person owning and claiming stock shall, in originally marking and branding animals, make use of more than one mark and brand; provided, that any person may own and possess animals in many marks and brands, the same having been by him acquired by purchase, and bills of sale in writing, properly acknowledged from the previous owner or owners, or his or their legally constituted agent, shall be sufficient evidence of such purchase; but the increase of such animals, or of any animals counter-branded by such person from other stocks of cattle owned by him, and all animals so counter-branded, shall be branded or counter-branded by one and the same brand; and when marked by such person, shall be marked in one and the same mark.

Sec. 23. The Clerk of the County Court in each county shall transcribe the list of all recorded marks and brands in his county, and revise the same. Such revised list shall be written in a well bound book, kept for that purpose only, and shall be arranged as follows, viz: All brands of the letter class shall be placed in alphabetical order, following which shall be the numeral, character and device brands, in the order of the date of their registration. Opposite each brand shall be stated the marks corresponding to said brand, the name of the owner of the brand, his place of residence; if the same be sold, the name of the person to whom sold and his residence, the date of registration of the brands and marks, or particulars relating thereto. Before each brand shall be placed its number, commencing at one for the first brand on the revised list; and the name of the owner of each brand shall be indexed, reference being had in such index to the list number of the brand or brands of such owner; and all new marks and brands placed on record shall be immediately recorded and indexed in said book, which shall at all times be open to the inspection of all persons; provided, that the provisions of this section shall apply only to counties in which the work of transcribing the records has not already been done in accordance with law.

Sec. 24. In all cases where application for registration of any mark or brand shall be made, the Clerk of the County Court shall receive and record the same, unless an examination of the recorded list of marks and brands shows that a similar mark and brand is already upon record in such county, in which event he shall refuse to register or give any certificate for the same; provided, that if such applicant shall have previously had such mark and brand recorded in some other county, and shall have a certificate from the Clerk of the county in which said brand had been recorded, and if said certificate shall state that said brand and mark had been recorded in said county at some time anterior to the time of the registration of the similar mark and brand in the county in which the said applicant may desire to have his brand recorded, then said brand and mark shall be recorded, and the Clerk shall, on the record, make a minute setting forth said facts.

Sec. 25. Every Inspector, or Deputy Inspector, provided for in this act, shall be entitled to receive for each hide or animal inspected, ten cents; but if more than fifty hides or animals are inspected in the same lot, then ten cents apiece for the first fifty, and three cents each for all above that number.

Sec. 26. Each Clerk of the County Court shall be allowed to collect the sum of fifteen cents for each hundred words in recording and certifying to every bill of sale provided for in this act; and the sum of seventy-five cents for recording each mark and brand and certificate thereof, and such compensation for revising the list of registered marks and brands of cattle stocks in his county as the County Commissioners' Court may allow.

Sec. 27. Whenever, in this act, the word, "Inspector" is used, it shall be taken and deemed to be "the Inspector of Hides and Animals;" and the words, "Deputy Inspector of Hides and Animals," and the words, "county, district or inspection district," shall be held to include each organized county in this State, together with any unorganized county that may be attached for judicial purposes to any such county.

Sec. 28. All marks and brands of cattle shall be recorded in the county or counties in which they usually range; provided, that when cattle are gathered near the county line, the bills of sale of the same shall be recorded in both counties; and when any stock of cattle is sold, the fact shall be noted on the record opposite or near the record of its mark and brand, giving the name of the vendor and vendee, and date of sale, and this shall be done as often as there may be a sale. It is made the duty of the Inspector to procure certified copies of the marks and brands of his county for himself and his deputies, and monthly to have added thereto the marks and brands that may be recorded.

Sec. 29. It is made the duty of the Inspector and his deputies carefully and personally to inspect and examine each animal separately, so as to see and know himself the marks and brands, ages, sexes and number of cattle inspected, and shall not trust to the statement of any person, and shall also carefully examine the bills of sale and lists of brands and marks for the cattle inspected by him; and if satisfied that the person claiming the cattle inspected has correct bills of sale or chain of transfer, in writing, from the recorded owner, or is the owner himself, in whole or part, of the mark and brand of each animal in his drove or herd, which should be inspected, and that he has none other in his said inspected herd, or under his control, to be carried with it, he will then, and not until then, make out a certificate, which he shall first enter in his record, under his hand and seal, containing the number of cattle in each mark and brand, with their respective ages and sexes thus inspected, and that they appear to be the property of the person for whom they were inspected, naming him or her as appears by bills of sale from the recorded owner of the said marks and brands, on the cattle inspected by him, or the owner of the brand and mark, himself or herself, and that he has none other in his herd or under his control that should be inspected; and that he intends to drive or ship them, naming the place in the State, for sale or slaughter; or if out of the State, he shall then name the place on the border of the State; and should any owner or owners designate a point on the border of the State, where there are no settlements or organized counties, such owner or owners shall have his herd inspected in the last organized county through which he

drives. And when he reaches the said place of destination in this State, before he shall sell, or slaughter or ship any of said cattle, he shall have them inspected there; and it is made the duty of that Inspector or deputy to carefully inspect all the cattle belonging to the herd in the manner prescribed for the first inspection, and compare the certificate of the first Inspector with the cattle, and if it appear that he has none in his herd or under his control but those mentioned or described in the Inspector's certificate, he will so certify in duplicate, and under his hand and seal, giving the date of the first certificate, by whom made, in what county, and the number of cattle found by him in each mark and brand, with ages and sexes. One of these certificates the Inspector will immediately remit by mail, postage paid, to the first Inspector, and the party will deposit the other with him, in two months from the date of the original inspection, both to be kept by him in his office; and the Inspector, at the point of destination, shall carefully examine and know, if possible, whether he has cattle under his control other than those originally inspected, and if he has, then he will take charge of the same and sell them as if under execution; or if not voluntarily delivered to him, then he may sue for and sequester them without giving bond and security; and by order of the Justice of the Peace, County Judge or District Judge of the court where the suit may be instituted, on application of said Inspector or his successors, the cattle shall be sold in like manner, and the proceeds of sale, less one-fourth retained by him for compensation and costs of suit, shall be deposited with the County Treasurer for the owner of the cattle sold, for one year; if not called for at the end of that time, the proceeds shall vest in the county. He will also file with the Treasurer a statement of the number in each mark and brand sold, and the amount each sold for. If the owner of the inspected herd should desire to sell, slaughter or ship the cattle, or any of them, at any other place than the destination named in the certificate of inspection, he may do so by first having his herd inspected and certificate to be compared by the Inspector with the original certificate, made and returned in the manner prescribed at the point of destination, as far as applicable; and the duty of such Inspector shall be the same as those prescribed for Inspectors at places of destination. Any Inspector or deputy who shall wilfully fail, refuse or neglect to comply with the provisions of this section shall, on conviction, be punished by imprisonment in the penitentiary for not less than two nor more than five years, or by fine not exceeding one thousand dollars, in the discretion of the jury, and shall be removed from office by the court having jurisdiction of the offense.

Sec. 30. Every Inspector shall have authority to authenticate bills of sale of animals, and give certificates of acknowledgment of the same under his hand and seal, and shall be allowed to collect fifty cents for every acknowledgment so taken.

Sec. 31. Every Inspector who shall give any certificate of inspection, without first having made the inspection in accordance with the seventh section of this act; or shall fraudulently issue a certificate of inspection of any hides or animals, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in any sum not less than fifty dollars, nor more than five hundred dollars; and in addition thereto, shall be removed from his office by a decree of the court trying the same.

Sec. 32. Any person who shall counter-brand any cattle without the consent of the owner or his agent, shall be deemed guilty of a misde-

meanor, and, on conviction, shall be fined in any sum not less than ten nor more than fifty dollars for each animal so counter-branded.

Sec. 33. Any person who shall alter the mark of any animal, shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined in any sum not less than ten nor more than fifty dollars for each animal whose mark is so altered; provided, this section shall not be construed so as to include sheep, hogs or goats, whereby it is here provided that any person or persons hereafter buying or selling the same may change or alter the marks of the same; provided, such change be made in the presence of two adult persons, and by stating in the bill of sale what the original mark was before the change or alteration and what it is after the change or alteration; and as often as the said stock is sold all the original change in the marks shall be stated in the bill of sale, with the names of the witnesses thereto, which bill of sale shall be legally authenticated.

Sec. 34. Any person who shall drive any cattle across the Rio Grande river into Mexico, at any other point than where a United States custom-house is established, or place of inspection by United States custom-house officers, or without first having the same inspected in accordance with the sixteenth section of this act, shall be deemed guilty of a felony, and, upon conviction, shall be confined in the penitentiary not less than two nor more than five years.

Sec. 35. Any person who shall ship from any part of this State any hides of cattle imported from Mexico, without first having procured a certificate of importation and inspection, as provided in section eighteen of this act, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in any sum not less than one dollar nor more than five dollars, for each hide not so inspected.

Sec. 36. Any person who shall sell any hides of cattle without the same having been inspected, shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined in any sum not less than one dollar nor more than five dollars for each hide so sold.

Sec. 37. Any person who shall drive any cattle out of any county, with the intention of driving the same beyond the limits of the State, to a market without first having road branded the same, in accordance with the fifteenth section of this act, shall be deemed guilty of a misdemeanor, and on conviction shall be fined in any sum not less than twenty dollars nor more than one hundred dollars for each animal so driven.

Sec. 38. Any person who shall drive any cattle or horses out of any county without the written authority of the owner thereof, duly authenticated as the law requires, and without first having the same duly inspected, shall be deemed guilty of a misdemeanor, and on conviction shall be fined in any sum not less than twenty dollars nor more than one hundred dollars per head for each animal so driven.

Sec. 39. Any person who shall purchase any animals or hides of cattle without obtaining a bill of sale from the owner or his agent, as required by sections eleven and twelve of this act, shall be deemed guilty of a misdemeanor, and on conviction shall be fined in any sum not less than twenty dollars nor more than one hundred dollars for each animal or hide so purchased.

Sec. 40. Any person who shall as the agent of another sell any cattle without first having obtained a power of attorney duly authenticated, shall be deemed guilty of a misdemeanor, and on conviction shall be fined not less than fifty dollars nor more than five hundred dollars.

Sec. 41. Any person who shall in originally branding and marking cattle, use more than one mark or brand, shall be deemed guilty of a misdemeanor, and on conviction shall be fined in any sum not less than twenty-five nor more than one hundred dollars for each animal so branded or marked; and any person or persons who shall brand or mark any animal, except in a pen, shall be deemed guilty of a misdemeanor, and on conviction shall be fined in any sum not less than ten nor more than fifty dollars for each animal so branded or marked.

Sec. 42. Any person who shall brand or mark any cattle without first having recorded his mark or brand shall be deemed guilty of a misdemeanor, and on conviction shall be find in any sum not less than twenty-five nor more than one hundred dollars for each animal so branded or marked.

Sec. 43. No Clerk shall record any brand, unless the person having the same recorded shall designate the part of the animal upon which the same is to be placed, as required by section — of this act, and any Clerk violating this section, shall be deemed guilty of a misdemeanor, and on conviction thereof by a court of competent jurisdiction, shall be fined not less than ten nor more than fifty dollars.

Sec. 44. When the Inspector has seized any hides or animals as provided for in sections nine and ten, he shall report the fact to some Judge of the District or County Court or Justice of the Peace, and and it shall be the duty of said Judge or Justice to issue or cause to be issued, a citation addressed: "To all whom it may concern," setting forth a seizure of said property, with a description of the same, commanding them to appear at a day named in said citation to show cause why the said property should not be forfeited to the county wherein the same was seized, and sold for the benefit of said county; said citation shall be directed to the Sheriff or other officer of said county, who shall cause certified copies of the same to be posted in three public places in said county for a period of ten days before the day mentioned in said citation. Upon the proof of the posting of said citation, as herein required, it shall be the duty of the Judge or Justice of the Peace issuing said citation, to proceed to condemn the property mentioned in said citation, unless satisfactory proof should be made of the ownership of said property, or other sufficient cause be shown why the same should not be condemned; and he shall order the same to be sold by the Inspector at public auction to the highest bidder. The Inspector shall be entitled to retain one-fourth of the net proceeds of such sale, after deducting therefrom all expenses connected therewith, and he shall immediately pay the remaining three-fourths thereof into the County Treasury; and all sums so paid in shall be placed to the credit of the general fund of such county.

Sec. 45. It shall be unlawful for any agent of any railroad, steamship or shipping company of any kind, to receive for shipment any cattle, unless they have been duly inspected under the provisions of this act; and it shall be the duty of such agent to examine the list of marks and brands before he receives them for shipment, and should any cattle be in the herd not inspected as provided in this act, such agent shall not receive such animal or animals for shipment. Should any agent or agents violate the provisions of this act, he shall be guilty of a misdemeanor, and on conviction shall be fined not less than twenty-five nor more than one thousand dollars for each animal so shipped.

Sec. 46. That the counties of Grimes, Madison, Walker, Trinity, Dallas, Ellis, Hopkins, Franklin, Titus, Red River, Grayson, Cooke, Rock-

wall, Hunt, Rains, Wood, Van Zandt, Kaufman, Limestone, Freestone, Navarro, Anderson, Henderson, Cherokee, Fannin, Lamar, Delta, Rusk, Panola, Shelby, Brazos, Leon, Robertson, San Jacinto, Polk, Tyler, Jasper, Newton, Hardin, Nacogdoches, Houston, Angelina, Sabine, San Augustine, Smith, Upshur, Gregg, Camp, Denton, Collin, Bowie, Cass, Marion, Morris, Hill, Johnson, Fayette, Austin, Washington, Burleson, Bastrop and Harrison, are hereby exempted from the operation of this act, and the provisions of the same shall in no wise relate or apply to the aforesaid counties; provided, that in those counties bordering on the lines of the State, the Governor shall appoint an Inspector whose duty it shall be to inspect, under the provisions of this act, all stock about to be driven or shipped out of the State; or in any other county exempt from the operations of this act, where there is a depot or place for the shipment of cattle; provided, that such cattle shall not be subjected to inspection on board any railroad train unless the same has been placed on board of such train for the purpose of evading the provisions of this act.

Sec. 47. That in counties exempted from the operations of this act, there shall be no elections held for the election of Inspector of Hides and Animals; and, in case there should be now a point or points in any of said counties for the shipping of cattle beyond the limits of the State, or should any point or points be hereafter designated in any of said counties for shipping cattle from the State, it is hereby made the duty of the Governor to appoint an Inspector of Hides and Animals to inspect any and all cattle intended for exportation from the State; and said Inspector shall be governed by the provisions of this act in performance of said duties; but he shall not inspect animals not intended for exportation beyond the limits of the State; that it shall be the duty of the Judge of the County Court of each county from which cattle are now shipped, or may hereafter be shipped from this State, to notify the Governor of the fact without unnecessary delay; that any County Judge of any county exempt from the operations of this act, who shall fail to give the notification above mentioned within thirty days from the date of shipment of cattle from his county, shall be deemed guilty of a misdemeanor, and for each omission shall be fined in a sum of money not less than one hundred dollars nor more than five hundred dollars upon conviction before a court of competent jurisdiction; and any person, firm or corporation, who shall export by rail, steam or shipboard from the State, or who shall drive from the State any cattle, without having the same inspected in the county, on the coast or border from which the same may be exported, shall be fined not less than one hundred nor more than one thousand dollars.

Sec. 48. That all laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 49. There being grave doubts as to the constitutionality of the present stock law, an imperative public necessity and emergency exists, that this act take effect and be in force from and after its passage, and it is so enacted.

Approved August 23, 1876.

Takes effect from its passage.

CHAPTER CLXVI.—An Act regulating elections.

Section 1. Be it enacted by the Legislature of the State of Texas, That the election precincts of the counties of this State, as now established, shall constitute election precincts; but the Commissioners' Court of each county may change the same at any regular or called term prior to December 31, 1876; and thereafter, at their first regular term in each year, if they deem it necessary, may divide their respective Justices' precincts into as many election precincts as they shall deem expedient, which shall all be numbered. No election precinct shall be formed out of any two or more Justices' precincts, and they shall designate one place in each of such election precincts, at which elections shall be held; and they shall at the same time, and at their first regular or called term in each year, select and appoint from among the residents of each election precinct some suitable person to be presiding officer of such precincts; but each Justice's precinct shall contain at least one election precinct; provided, that in any incorporated city of this State, each ward of said city shall constitute an election precinct, and the Commissioners' Courts of the counties in which said cities are situated shall, as above provided, select and appoint some competent person from among the residents of such precinct, a presiding officer thereof, and that such presiding officer shall have all the powers and authority, and shall discharge all the duties of other presiding officers of election; and said Commissioners' Courts shall, as above provided, designate at least one place in each of said precincts, at which elections shall be held.

Sec. 2. The County Judges of the several counties, and in case of vacancy in that office, or any inability, failure or refusal of the County Judge to act, then any two of the County Commissioners of the county shall order all elections for county and precinct officers in their respective counties.

Sec. 3. The Governor shall, by proclamation, order all elections for State and district officers, members of Congress, members of the Legislature, and all other elections required to be ordered by him by the Constitution or laws of the State.

Sec. 4. When any election is ordered, at least twenty days' notice of the election shall be given by notice posted up at the place or places designated for holding the election in each election precinct, specifying the time and place or places at which such election is to be held, and the officer or officers to be chosen; and it is hereby made the duty of the County Judge of each county to have posted, as required in this act, all election notices.

Sec. 5. In all cases of vacancy in any civil office of the county, district, or State, by death, resignation, or otherwise, which by law is filled by election of the people, the officer or officers authorized by this act to order elections shall immediately make such order for an election, fixing the day, not exceeding thirty days off, to fill the unexpired time made vacant, and cause like notice to be given, and issue writs as prescribed for regulating elections.

Sec. 6. Forms for notices, writs and returns of elections, shall be furnished by the Secretary of State to the County Judge of each county.

Sec. 7. It shall be the duty of the County Judge of each county, or, in case of vacancy in his office, or any inability of the County Judge to act, then any three of the County Commissioners, to order all elections for county and precinct officers, and to issue writs of election, in

which writs shall be stated particularly the officer or officers to be chosen, and the day of election, and a copy of the form of election returns, furnished by the Secretary of State, shall accompany such writs.

Sec. 8. The presiding officer of each election precinct, shall, on or before the day of election, select two judges and two clerks, from the different political parties, if demanded, so far as practicable, and there be present a sufficient number of the party making the demand, and willing to serve, who, together with the presiding officer, shall be the managers of election; and the presiding officer shall administer to each of them an oath that they will each well and truly conduct the election, without partiality or prejudice, and agreeably to law, according to the best of their skill and understanding; and one of the judges of the election shall, before opening the polls, administer to the presiding officer an oath that he will faithfully and impartially discharge the duties of presiding officer of election, to the best of his skill and understanding.

Sec. 9. In case the presiding officer should fail to attend on the day of election, or refuse or fail to act, or in case no manager has been appointed, it shall be lawful for the electors present at the precinct voting place on that day to appoint, from among the electors of the precinct, a presiding officer to act as such at that election; and the person so appointed shall be authorized to act as presiding officer as fully as the presiding officer hereinbefore provided for could do, if such presiding officer was present and acting; and in making their return of the election they shall certify that the presiding officer was appointed from the electors present at the precinct voting place on that day, because the regular presiding officer failed to attend, or refused to act, as the case may be.

Sec. 10. That all presiding officers, judges and clerks of elections, are hereby authorized to administer all oaths necessary or proper in the discharge of their duties as such, and to administer all oaths connected in any way with the holding of elections.

Sec. 11. Electors in all cases shall be privileged from arrest during their attendance at elections, and in going to and returning from the same, except in cases of treason, felony, or breach of the peace.

Sec. 12. That all the elections in this State shall be held for one day only at each election, and the polls shall be open on that day from eight o'clock a. m. to six o'clock p. m.

Sec. 13. The following classes of persons shall not be allowed to vote in this State, to-wit: First—Persons under twenty-one years of age. Second—Idiots and lunatics. Third—All paupers supported by any county. Fourth—All persons convicted of any felony. Fifth—all soldiers, marines and seamen employed in the service of the army or navy of the United States.

Sec. 14. Every male person, subject to none of the foregoing disqualifications, who shall have attained the age of twenty-one years, and who shall be a citizen of the United States, and who shall have resided in this State one year next preceding an election, and the last six months within the district or county in which he offers to vote, shall be deemed a qualified elector; and every male person of foreign birth, subject to none of the foregoing disqualifications, who, at any time before an election, shall have declared his intention to become a citizen of the United States, in accordance with the federal naturalization laws, and shall have resided in this State one year next preceding such election, and the last

six months in the county in which he offers to vote, shall also be deemed a qualified elector; and all electors shall vote in the election precinct of their residence; provided, that electors living in any unorganized county may vote at any election precinct in the county to which such county is attached for judicial purposes. The residence of a married man, if not separated from his wife, shall be where his family resides; and that of a single man where he boards and sleeps; and should any single man board in one ward or precinct, and sleep in another, then his residence shall be in the ward or precinct in which he sleeps, and he shall not vote in any other precinct or ward. And it shall be the duty of the judge of election, when requested by any bystander, to swear any person offering to vote, as to his residence, and to have placed in writing opposite his name, the word "sworn;" and any person voting at any other place than that of his residence shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not exceeding one thousand dollars, or imprisoned in the county jail not to exceed six months, at the discretion of the jury.

Sec. 15. All qualified electors of the State, as herein described, who shall have resided for six months immediately preceding an election within the limits of any city or corporate town shall have the right to vote for Mayor and all other elective officers; but in all elections to determine expenditure of money or assumption of debt, only those shall be qualified to vote who pay taxes on property in said city or incorporated town.

Sec. 16. That each of the clerks shall write and number the name of each voter at the time of voting; and one of the judges, in every case, at the time of receiving the ticket or ballot, shall write upon it the voter's number, corresponding with the number on the clerk's list; and no manager or other officer of election shall unfold or examine the vote received, nor shall they examine the indorsement on the tickets, by comparing it with the clerk's list of voters when the votes are counted out, nor shall they examine, or permit to be examined by any other person, the tickets, subsequent to their being received into the ballot-box, except as hereinafter provided; and any presiding officer, judge or clerk of election, who shall violate any of the provisions of this section, upon conviction thereof shall be deemed guilty of a felony, and shall be punished by imprisonment in the penitentiary not less than one nor more than two years. No ticket, not numbered as provided in this act, shall be counted or noticed in counting out the votes, nor shall either of two or more tickets folded together. That immediately after the counting of the votes by the managers of election, the presiding officer thereof shall place all the tickets or ballots voted into a wooden or metal box, of sufficient size to contain them, and to securely fasten the same with nails, screws or locks; and he shall, within five days after the election, deliver said box to the County Clerk, whose duty it shall be to keep the same securely, and, in the event of any contest growing out of the election within one year thereafter, he shall deliver said box to any competent officer having a writ or subpoena therefor from any tribunal or authority authorized to issue such process; and in the event that no contest grows out of said election within one year after the election, then the said Clerk shall destroy the said tickets or ballots by burning the same. The violation of any of the provisions of this section shall be deemed a misdemeanor, and any person convicted thereof shall be punished by fine not less than fifty nor more than five hundred dollars, and by im-

prisonment in the county jail not to exceed six months. Any presiding officer, judge, or clerk of an election, who shall divulge how any person shall have voted at any election, from an inspection of the tickets, unless a judicial investigation, shall be deemed guilty of a misdemeanor, and on conviction shall be fined in any sum not less than fifty nor more than five hundred dollars.

Sec. 17. Immediately after closing the polls, the managers of election shall proceed to count the votes in the presence of two voters of their county, of good repute, and also of different politics, if convenient to get, and shall continue such count, without interruption, until all the ballots voted at such election are counted, and make out a return, signed by the managers, which shall be sealed up and delivered to the County Judge of the county (or, in case of his absence, to the Clerk of the County Court, who shall file the same in his office and deliver the said return to the County Judge on the day appointed to open and compare the polls), by the presiding officer or one of the managers of the election, a duplicate of which return shall be kept by the presiding officer of the election.

Sec. 18. The election returns shall not be opened by the officer to whom they are returned before return day, which shall be ten days after the election, Sundays excluded; at the expiration of that time he shall open them and estimate the result, recording the state of the polls of each precinct, in a book to be kept by him for that purpose; and, after making such estimate, he shall deliver to the candidate or candidates for whom the greatest number of votes have been polled for county and precinct officers, a certificate of election, naming therein the office to which he has been elected, the number of votes polled for him, and the day on which the election was held, and shall sign the same and cause the seal of the County Court to be thereon impressed, and shall also, at the same time, make an estimate of the votes polled for members of the Legislature, and shall, if his county constitute a senatorial or representative district, give a like certificate of election to the person or persons receiving the highest number of votes for Representatives or Senators, and transmit a duplicate of the same to the Secretary of State.

Sec. 19. In all elections of Comptroller of Public Accounts, Treasurer of the State, Commissioner of the General Land Office, Attorney-General, Judges of the Supreme, Appellate and District Courts, and District Attorneys, and for Representatives in the Congress of the United States, the County Judge or other officer to whom the returns in each county are made, shall, on the tenth day after the election, and not before, make out duplicate returns, one of which shall be transmitted by such officer to the seat of government, directed to the Secretary of State, and endorsed, "Election returns of ——— county, for ———;" the other shall be deposited in the office of the District Clerk; and on the fortieth day after the election, and not before, the Secretary of State, in the presence of the Governor and Attorney-General, or in case of vacancy or inability of either of those officers to act, then any two of said officers, shall open and count the returns. And the Governor shall immediately make out, sign and deliver a certificate of election, with the seal of the State thereto affixed, to the person or persons who shall have received the highest number of votes for each or any of said offices. The County Judges of the several counties of the State shall promptly make duplicate returns of the election for Governor and Lieutenant-Governor, carefully sealed up; one of which shall be transmitted to the seat of government, and directed to the Speaker of the House of Rep-

representatives, endorsed, "Election returns of ——— county, for ———;" and the other shall be deposited in the office of the Clerk of the County Court. The transmitted returns, directed to the care of the Secretary of State, shall be taken charge of by him, and preserved in his office, the package and seal thereon to remain unbroken until the organization of the next Legislature, when he shall, on the first day thereof, deliver the said returns to the Speaker of the House of Representatives.

Sec. 20. That the Judges of the election, while in the discharge of their duties, shall have the power of a District Judge to preserve order and keep the peace. They may appoint special Constables to act during the election, and they, or either of them, may issue writs of arrest for felony or breach of the peace, to the Sheriff or Constable, who shall forthwith execute such writ, and may commit the party arrested to jail during the election, if so ordered by the judge of the election; but he shall first be permitted to vote, if entitled to do so; and as soon as practicable, after the close of the polls, he shall be taken before the proper magistrate for examination, as law directs in such cases.

Sec. 21. That during the entire day of any election in this State for municipal, county, district, or State officers, it shall be unlawful for any bar-room, saloon, or other place, house, or establishment where vinous, malt, spirituous, or intoxicating liquors are sold, to be open, but the same shall be closed by any Sheriff or Constable of the county, or by any Constable whose special appointment is provided for by this act, on the order of the judges of election; and it shall be unlawful for any person or persons, or firm, to sell, barter or give away any vinous, spirituous, malt or intoxicating liquor within the limits of the county within which such election is being held, during the day thereof. And any person violating any provision of this section shall, for each offense, be guilty of a misdemeanor and subject to indictment, and may be fined in any sum not less than one hundred dollars nor more than five hundred dollars for each offense; provided, nothing herein contained shall prevent the sale of liquor at any drug store, or establishment where drugs are sold for medical purposes, on the prescription of a practicing physician, nor to the sale of liquor by regular wholesale merchants to be shipped or sent out of the county; and provided further, that nothing herein contained shall prevent stores from being opened for the sale of other goods, wares, and merchandise.

Sec. 22. That the Governor shall commission all officers except members of Congress, members of the Legislature, the Governor and municipal officers.

Sec. 23. That in all city or town elections, where not otherwise provided for by the charter of said city or town, the Mayor thereof, or in the event he fails or refuses to act, then any two of the Aldermen, shall order elections, give notices, appoint presiding officers, who shall hold the election and make returns to the Mayor, under the same regulations and with like effect as in county elections, so far as applicable.

Sec. 24. That in all elections hereafter, if there should be any [an] equal number of votes given to two or more persons for the same office, and no one elected thereto, the election of such officer shall again be returned to the people, and an election be ordered, notices given, and another election [held] in the same manner as the general election.

Sec. 25. That any persons who shall vote, or attempt to vote, more than once at the same election, shall be deemed guilty of a felony, and on conviction shall be confined in the penitentiary not less than two nor

more than five years. Any person who shall disturb any election by exciting [inciting] or encouraging a tumult or mob, or shall cause any disturbances in the vicinity of any poll or voting place; or any person who shall wilfully aid, or abet, or advise any one not legally qualified in voting or attempting to vote at any election; or any person or persons who shall, by force or intimidation, obstruct, or attempt to obstruct, or influence any voter, in his free exercise of the election [elective] franchise; or any person who may carry any gun, pistol, bowie knife, or other dangerous weapon, concealed, or unconcealed, on any day of election, during the hours the polls are open, within the distance of one-half mile of any poll or place of voting, shall be deemed guilty of an offense, and on conviction thereof shall, for every such violation, be fined not less than one hundred nor more than five hundred dollars, and may, in addition thereto, be imprisoned in the county jail, not exceeding one month.

Sec. 26. That the County Judges of the several counties shall discharge the duties of returning officers, as required by law for senatorial and representative districts. When an election shall have been held for members of the Legislature, in a district composed of more counties than one, the County Judge or other officer to whom the returns in each county are made, who are not authorized to give certificates of election to such persons aforesaid, shall make out and send complete returns of such election, after examining and recording the same, to the returning officer of said district, which returns shall be sealed up, and the name of the officer forwarding them shall be written across the seal, and the package marked on the outside, "Election returns," which package may be sent by mail. The returning officer to whom the returns are so forwarded, or in case of his inability, absence, refusal, or failure to act, the County Clerk, or his deputy, shall, upon the thirtieth day after the election (Sunday excluded), open and count said returns in the presence of at least one of each political party; and, after recording the same, shall give a certificate of election to the person or persons receiving the highest number of votes for Senator or Representative in that district; provided, that if all the election returns from the district shall have been received by the returning officer of the district before the said thirtieth day, then the said returning officer may count said returns and issue the certificate herein provided for.

Sec. 27. That in every year in which an election shall be held for President or Vice-President of the United States, such election shall be held on the first Tuesday next after the first Monday in November, and in accordance with an act of Congress of the United States, approved January 23, 1845, entitled: "An Act to establish a uniform time for holding elections for electors of President and Vice-President in all the States of the Union;" and such elections shall be held and conducted, and returns made thereof, as in the manner and form provided by law for the general election.

Sec. 28. That the provisions of this act shall apply to the elections of all officers, or for any other purposes, where not otherwise provided by law.

Sec. 29. That those that may hereafter receive certificates of election to the Senate and House of Representatives of the Legislature of this State, and those Senators whose terms of office shall not have terminated, and none other, shall be competent to organize the said Senate and House of Representatives.

Sec. 30. That the act entitled, "An Act to provide for the mode and manner of conducting elections, making returns, and for the protection and purity of the ballot-box," approved August 15, 1870, and "an act to regulate elections," approved March 31, 1873, and all other laws and parts of laws in conflict with the provisions of this act, be, and the same are hereby repealed.

Sec. 31. In view of the fact that elections will soon be held throughout the State, and there being no adequate law in force to regulate the same, an imperative public necessity and emergency exists for the immediate passage of this act, and it is therefore enacted that this act be in force and effect from and after its passage.

Approved August 23, 1876.

Takes effect from its passage.

CHAPTER CLXVII.—An Act to provide for the judicial forfeiture of charters, and prescribing the duties of the Attorney-General in relation thereto.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be the duty of the Attorney-General, unless otherwise expressly directed by law, whenever sufficient cause exists therefor, to seek a judicial forfeiture of the charters of private corporations; and he shall at once take steps to seek such forfeiture in all cases where satisfactory evidence is laid before him that any corporation receiving State aid has by the non-performance of its charter conditions or the violations of its charter, or by any act, or omission, mis-user or non-user, forfeited its charter.

Sec. 2. All suits and proceedings, under the provisions of this act shall be commenced and prosecuted in the District Court of Travis county.

Sec. 3. That the sum of one thousand dollars be, and the same is hereby appropriated, out of any moneys in the State Treasury, not otherwise appropriated, for the purpose of paying such costs and expenses as it may become necessary to pay in prosecution of suits under this act, and the Comptroller shall, upon accounts approved by the Attorney-General, draw his warrants on the Treasury therefor.

Sec. 4. That owing to the near approach of the close of the session, and in order to carry out the provisions of Section 22, Article 4 of the Constitution, there exists an imperative public necessity and an emergency for the suspension of the rules, and the immediate passage of this act; and it is therefore enacted that this act go into effect, and be in force from and after its passage.

Approved August 21, 1876.

Takes effect ninety days after adjournment.

JOINT RESOLUTIONS.

No. 1.—Joint Resolution granting leave of absence to Judge Gustave Cook.

Whereas, the Hon. Gustave Cook, Judge of the Criminal Court of Galveston and Harris counties, is dangerously ill from the effects of unhealed wounds received in battle during the late war; and whereas, his physicians advise him that a change of climate and treatment is necessary to save his life; therefore,

Be it resolved by the Legislature of the State of Texas, That the Hon. Gustave Cook be and is hereby granted leave of absence from the State for the period of ninety days, at any time between the first day of June and the first day of October, 1876.

Resolved, further, that it is a matter of imperative public necessity that the life of one of the Judges of the State be saved if possible, and that the condition of the said Gustave Cook is an emergency requiring immediate action, and that this joint resolution take effect from and after its passage.

Approved May 25, 1876.

Takes effect from its passage.

No. 2.—Joint Resolution providing for the printing and distribution of such general laws as take effect from and after their passage, passed at this session of the Fifteenth Legislature.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Printing Committees of the two Houses of the Fifteenth Legislature are authorized and required to have printed two thousand copies of each general law, duly authenticated by Secretary of State, that takes effect from and after its passage, passed at this session of the Legislature, immediately upon its becoming a law. Two hundred copies of each shall be delivered to the Secretary of the Senate for the use of the Senators; six hundred copies to the Clerk of the House for the use of the members of the House of Representatives; and the residue to the Secretary of State for immediate distribution among the different officers of the State.

Sec. 2. The necessity for a general knowledge for the laws by the people of Texas causes an emergency, and it is hereby enacted that this joint resolution shall take effect from and after its passage.

Approved June 1, 1876.

Takes effect from its passage.

No. 3.—Joint Resolution validating the election for County Treasurers, County Surveyors and Inspectors of Hides and Animals, held on the fifteenth day of February, eighteen hundred and seventy-six.

Section 1. Be it resolved by the Legislature of the State of Texas, That the election of County Treasurers, Surveyors and Inspectors of Hides and Animals of the various counties of the State of Texas at the recent election, to-wit: on the third Tuesday, the fifteenth day of February, eighteen hundred and seventy six, be and is hereby ratified and made valid; provided, that where the officer has already qualified and given bond as required by this joint resolution, the same shall be deemed sufficient, and that until otherwise provided by law, said County Treasurers, Surveyors and Inspectors of Hides and Animals be required to take the oath of office as required by the present Constitution of the State of Texas, and give bond as required by existing laws, and that their compensation be the same as under existing laws, until otherwise provided by law.

Sec. 2. That all official acts of said County Treasurers, County Surveyors and Inspectors of Hides and Animals, elected at the election held on the fifteenth day of February, eighteen hundred and seventy-six, are hereby declared to be valid, and of full force and effect.

Sec. 3. That the confusion arising from misinterpretation of the rights and powers of said County Treasurers, County Surveyors and Inspectors of Hides and Animals elected at said February election, creates an emergency that this joint resolution go into effect at once, therefore this joint resolution take effect and be in force from and after its passage.

Approved June 12, 1876.

Takes effect from its passage.

No. 4.—Joint Resolution to provide for the survey, condemnation and sale of certain property belonging to the State of Texas.

Whereas, Much damaged property, embracing broken furniture and other articles useless to the State, has accumulated about the public buildings and grounds; and whereas, said property occupies room and space needed for other purposes; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That a Board of Survey, consisting of one Senator, to be designated by the President of the Senate, and one Representative, to be designated by the Speaker of the House, and the Adjutant-General of the State, be appointed, whose duty it shall be to examine, condemn, and inventory any and all property belonging to the State, about the public buildings and grounds, which they may deem of no further use to the State.

Sec. 2. Be it further resolved, That it shall be the duty of said Board of Survey when said property shall have been so condem(n)ed, and inventory thereof made, to contract with some auctioneer or commission merchant of the City of Austin to sell the same at the best price to be procured therefor.

Sec. 3. Resolved further, That when such sale has been made, a full itemized report of such sale shall be made by said auctioneer, and the proceeds of said sale less the commissions allowed, shall be delivered to said Board of Survey, and the money so received shall be by said Board deposited in the Treasury of the State, and placed to the credit of the general revenue.

Sec. 4. Resolved further, That as delay will further reduce the value of the property herein referred to, a public necessity exists and an emergency requires, that this resolution take effect and be in force from and after its passage.

Approved June 21, 1876.

Takes effect from its passage.

No. 5.—Joint Resolution instructing our Senators and requesting our Representatives in Congress to ask protection for the frontier, and compensation for past expenditures by the State in that behalf.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Federal Government owes to Texas protection of her exposed frontier, by virtue of her rights, as a member of the Union, to an equal participation in the benefits and blessings which its Constitution guarantees to all the States, among which is defense against invasion; and the Republic of Texas, upon her accession to the Union, having ceded to the United States all public edifices, fortifications, barracks, ports and harbors, navy and navy-yards, docks, magazines, arms, armaments and all other property and means pertaining to the public defense; the faith of the United States thereby became solemnly pledged to extend to the frontiers of the said Republic of Texas the most ample protection, without which, as a condition precedent, Texas would have had no sufficient inducement to surrender her independent political position.

Sec. 2. That our Senators in the Congress of the United States are hereby instructed, and our Representatives are hereby requested, to present to Congress now assembled, these resolutions of the Legislature of the State of Texas, and to urge upon that body the enactment of such laws as will secure to our frontiers ample military protection against Indians and Mexican freebooters, the military forces of the United States on our borders being too weak, under the most effective command to afford such protection, and the State of Texas being compelled in defense of the property and lives of her citizens to maintain in the field a considerable military force at her own expense.

Sec. 3. That our said Senators be instructed and our Representatives requested to present and urge before Congress the passage of a bill reimbursing the State of Texas for the large appropriations of money which from time to time have necessarily been made by her Legislature, because of the failure of the Federal Government to provide sufficient protection to our frontiers.

Sec. 4. That the Governor of the State be requested to transmit to our Senators and Representatives in Congress, a copy of these resolutions, together with an itemized statement of all expenditures made by the State in the protection of her frontiers.

Sec. 5. The fact that Congress will adjourn at an early day, and the necessity for prompt action requires that this joint resolution take effect and it is hereby declared, that it do take effect from and after its passage.

Approved July 6, 1876.

Takes effect from its passage.

No. 6.—Joint Resolution instructing our Senators, and requesting our Representatives in Congress to secure, if possible, the permanent establishment of a line of steam vessels to carry the United States mail once a week between the city [of] Galveston and Brazos Santiago.

Section 1. Be it resolved by the Legislature of the State of Texas, That our Senators in Congress are hereby instructed, and our Representatives are requested to procure, if possible, the passage of an act by the Congress of the United States, authorizing and requiring the Postmaster-General to contract, on proper terms, with some suitable and responsible parties for the term of ten years for the carrying of the United States mail, by steamer, direct from the city of Galveston to Brazos Santiago once a week each way, touching at Aransas.

Sec. 2. That the Governor be and is hereby requested to transmit a copy of this joint resolution to his Excellency, the President of the United States, Postmaster-General, and to each of our Senators and Representatives in Congress.

Sec. 3. In view of the fact that Congress will adjourn at an early day, and the necessity for prompt action creates an emergency that this joint resolution pass at once; it is therefore enacted that it be in force from and after its passage.

Approved July 11, 1876.

Takes effect from its passage.

No. 7.—Joint Resolution.

Whereas, Immigration is rapidly filling the western portion of our State, and the present mail facilities are wholly inadequate to the want of communities; and, whereas, the important route from Fort Concho to El Paso is the only direct communication connecting the military stations protecting our frontier, and is the only route making direct connection with the more populous provinces of the Republic of Mexico; and, whereas, service on said route was formerly three times each way per week, and instead of increasing with the increasing demands was reduced to only two trips per week, when there ought to be at least three trips per week mail service from the capitol of our State to the western end of this important line; therefore,

Section 1. Be it resolved by the Senate and House of Representatives of the State of Texas, That we do hereby memorialize the Postmaster-General to immediately increase the present mail service upon the important route from Fort Concho to El Paso, and we do hereby instruct our United States Senators and request our Representatives in Congress to use all honorable means to have the mail service made not less than three times a week upon said route; be it further resolved, that the official copies hereof, properly attested, shall be forwarded to the Postmaster-General and to each of our United States Senators and Representatives.

Sec. 2. The facts set forth in the preamble hereof, and the prospect of an early adjournment of Congress causes such an emergency as requires immediate action in this matter, and it is hereby enacted that this joint resolution take effect and be in force from and after its passage.

Approved July 19, 1876.

Takes effect ninety days after adjournment.

No. 8.—Joint Resolution.

Whereas, General G. A. Custer has endeared himself to the people of the frontier of Texas and elsewhere, by his bold and dashing operations against the Indians; and, whereas, the news of his late sudden death, while in discharge of his dangerous duties is received; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That we tender our sincere condolence to the family of the deceased, and to the people of our suffering frontier, and that the Governor be requested to forward a copy of this joint resolution to our Senators and Members of Congress, with the request that the same be spread upon the journals of Congress; and a copy of the same be forwarded to the family of the deceased.

Approved July 28, 1876.

Takes effect ninety days after adjournment.

No. 9.—Joint Resolution.

Whereas. The Constitution inhibits this State from expending money in the interest of immigration, and whereas an impression prevails that the people of this State are indifferent or opposed to immigration from the older States of the Union, and from foreign nations, and whereas the Texas Land and Immigration Company of St. Louis, a corporation organized under the general statutes of the State of Missouri, composed of men of known integrity of character, business reputation, possessing ample means, have undertaken to carry on a free communication with the other States of the Union, and with foreign countries, furnishing information of the great resources of the State of Texas, her climate, soil, minerals, and advantages presented for the investment of capital in manufactures, and other advantages to the immigrant; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the people of Texas extend a cordial invitation to the good and industrious immigrant to come and make his home among us, and that we will extend to him a hearty welcome, and that the State officers are authorized and requested to furnish the agents and officers of said company such official documents at their disposal as will aid the said company in the work of securing immigration to this State; provided, the same be done without any cost to the State.

Approved August 28, 1876.

Takes effect ninety days after adjournment.

No. 10.—Joint Resolution.

Whereas, W. T. Neale, a citizen of the town of Hearne, in Robertson county, Texas, was nominated and confirmed a Notary Public, in and for said county, on the first day of February, 1875, and duly qualified as such, but the Clerk of the District Court of said county failed to attach the oath to the bond; and whereas, great damage and loss may arise from the acts of said Notary to numerous parties, if the same be not legalized; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That all and every act of the said W. T. Neale, as such Notary Public, be and the same are hereby declared legal, with all the force and effect, as if done under full warrant and authority.

Approved August 10, 1876.

Takes effect ninety days after adjournment.

No. 11.—Joint Resolution.

Be it resolved by the Legislature of the State of Texas, That the trustees of the Methodist Episcopal Church, South, in the city of Austin, be and they are hereby authorized to take charge of and control for the use of said church a certain tract or lot of land belonging to the Capitol Grounds, lying adjoining and north of said church and south of Mesquite street, in the city of Austin, until the State, through her proper officers, may demand the same; whereupon the said trustees shall cease to have control of the same, and shall deliver said property peacefully and without delay, to such officer as may demand the same for the use of the State.

Approved August 16, 1876.

Takes effect ninety days after adjournment.

No. 12.—Joint Resolution.

Whereas, By a joint resolution of the Congress of the United States approved July 3, 1876, the Secretary of War is authorized to issue to the Territories and the States bordering thereon, such arms as he may deem necessary for their protection, not to exceed one thousand to said States, each, etc., and, whereas, the Governor of each State receiving its quota of said arms is required to give good and sufficient bond for the return of said arms or payment for the same at such times as the Secretary of War may designate, and their being no authority vested in the Governor of the State of Texas to make such bond; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the Governor of this State be, and is hereby authorized and empowered to give or make such bond, in the name and behalf of the State, as is required to secure to this State the quota of arms to which it may be entitled by virtue of said joint resolution of the Congress of the United States, approved July 3, 1876.

Sec. 2. As the session of the Legislature is drawing rapidly to a close, and it being necessary that this resolution be of effect immediately, creates an emergency as is contemplated by the Constitution, and it is therefore enacted that this resolution be of force and effect from and after its passage.

Approved August 21, 1876.

Takes effect from its passage.

No. 13.—Joint Resolution providing for the leasing of three hundred feet square in the block or lot of land, in the city of Austin, lying north of the State Capitol, and known on the map of said city, now on file in the General Land Office, as College Hill.

Section 1. Be it resolved by the Senate and House of Representatives of the State of Texas, That the Governor, Comptroller and the Treasurer of the State be and are hereby authorized to lease, for a period not exceeding twenty years, to the City Water Company of Austin, three hundred feet square of ground in the block or lot of land known as College Hill: beginning two hundred feet from the corner of San Marcos and Orange streets, running east three hundred feet; thence south three hundred feet; thence west three hundred feet; thence north three hundred feet to Orange street; to be used for the purpose of erecting a reservoir thereon.

Sec. 2. In consideration of such lease, the said City Water Company shall bind itself to keep any reservoir to be erected by it in good repair, and to furnish water for all State, school or college buildings which may be erected on said block; also for the Capitol, Land Office, Supreme Court and Comptroller's buildings, Governor's mansion and the Capitol grounds, free of charge; provided, that if said company shall fail, neglect or refuse to comply with the terms of this resolution, then they shall forfeit all right to the privileges and land granted them in this resolution. No contract shall be made under this resolution which will, in the opinion of the Governor, permit a structure to be erected that would impair or injure the value of the forty acres for university purposes.

Sec. 3. There being a public necessity that an abundance of water should be constantly kept in and about the public buildings, for extinguishing fire and for other purposes; therefore, an emergency exists that this resolution go into effect from and after its passage, and it is so enacted.

Approved August 21, 1876.

Takes effect from its passage.

No. 14.—Joint Resolution authorizing a sale or lease of and cession of jurisdiction over certain lands to the United States for the erection of a fort, arsenal, barracks, military station and camp.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Governor, in conformity to the provisions of "An Act for ceding to the United States jurisdiction of certain lands in this State for public purposes," approved December 19, 1849, and "An Act supplemental thereto," approved February 13, 1852, be, and he is hereby authorized and empowered to sell or lease to the United States, and cede the jurisdiction over such reasonable quantity of land in the vicinity of Fort Elliott, in the northwestern portion of Texas, as may be required by the United States, for the purpose of erecting forts, arsenals, barracks military stations and camps, and for other needful military purposes, the Legislature of the State hereby giving its approval to said sale or lease.

Sec. 2. If the land so sold or leased shall belong or pertain to the public school fund, the proceeds arising therefrom shall be placed to the credit of said fund.

Sec. 3. Whereas, a necessity exists for the better protection of the frontier, which protection will be afforded by the immediate sale or lease of said lands for the purposes before mentioned, thus creating an emergency; therefore, resolved that this resolution take effect from its passage.

Approved August 21, 1876.

Takes effect from its passage.

No. 15.—Joint Resolution to authorize the Governor to make such endorsement on registered U. S. bonds as may be necessary to sell or transfer them.

Resolved by the Legislature of the State of Texas, That the Governor, or such other person as may be required by law, be and is hereby authorized to make such endorsement on all the registered United States bonds now held for the benefit of the permanent school fund, as may be necessary to sell and transfer them; and, whereas, interest to accrue to the school fund will be materially enhanced by the early conversion of

said United States bonds into the six per cent. interest bearing bonds of this State; and, whereas, as the necessities of meeting promptly the maturing liabilities of the State may render the negotiation of these bonds desirable at an earlier period than ninety days from and after the adjournment of this Legislature; therefore, be it further resolved that an emergency exists and that this joint resolution take effect and be in force from and after its passage.

Approved August 21, 1876.

Takes effect from its passage.

DEPARTMENT OF STATE, }
AUSTIN, TEXAS, OCTOBER 28, 1876. }

I, A. W. DEBERRY, Secretary of State of the State of Texas, do hereby certify that I have compared the foregoing laws and joint resolutions of the Fifteenth Legislature with the originals now on file in the Department of State, and that they are true copies of such originals. I further certify, that the session of the Fifteenth Legislature of the State of Texas commenced at the city of Austin on Tuesday, the eighteenth day of April, A. D. eighteen hundred and seventy-six, and adjourned on the twenty-first day of August, A. D. eighteen hundred and seventy-six.

In testimony whereof, I have hereto signed my name, and affixed
the seal of State, at the city of Austin, this the day and date
above written.

SEAL

A. W. DEBERRY,
Secretary of State.

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SPECIAL LAWS
OF
THE STATE OF TEXAS

PASSED AT THE
SESSION OF THE FIFTEENTH LEGISLATURE

BEGUN AND HELD
AT THE CITY OF AUSTIN

APRIL 18TH, 1876

BY AUTHORITY.

GALVESTON
1876

SPECIAL LAWS OF TEXAS.

CHAPTER I.—An Act making an appropriation to pay Captain L. H. McNelly's company, volunteer militia, for sixteen months' service on the Rio Grande to July 1, 1876.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of forty-eight thousand seven hundred and fifty dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated, to pay Captain L. H. McNelly's company for the period of sixteen months, while in the service of the State, under the call of the Governor.

Sec. 2. That the foregoing amount, or any part thereof due, shall be paid by the warrant of the Comptroller on the Treasurer, on account of the services rendered, certified to be correct by the Adjutant-General; provided, that the sum of twenty-two thousand seven hundred and ninety dollars advanced to Captain McNelly's company out of the frontier battalion fund shall first be returned out of this appropriation to said fund; and, whereas, the protection of the Rio Grande frontier creates a public necessity for the immediate passage of this bill, that this act take effect and be in force from and after its passage.

Approved May 25, 1876.

Takes effect from its passage.

CHAPTER II.—An Act ratifying and confirming an ordinance of the city of Houston, adopted December the 10th, 1875, providing for the consolidation and funding of the bonded indebtedness of said city.

Whereas, The City Council of the city of Houston did on the 10th day of December, 1875, adopt an ordinance providing for the consolidation and funding of the bonded indebtedness of said city; and,

Whereas, In pursuance of said ordinance said city has had engraved and printed, twelve hundred and fifty thousand (\$1,250,000) dollars of six per cent. bonds, to be exchanged for certain outstanding bonds of said city; and,

Whereas, In section eight of said ordinance, provision is made for legislative sanction of the terms of said ordinance; and

Whereas, The said city of Houston has asked that said sanction be given; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That

an ordinance of the City Council of the city of Houston, adopted on the 10th day of December, 1875, entitled: "An Ordinance to provide for the consolidating and funding of the bonded indebtedness of the city of Houston," and in pursuance of which said ordinance, the said city has caused to be engraved and printed twelve hundred and fifty thousand (\$1,250,000) dollars of six per cent. bonds, to be given in exchange for all outstanding bonds of said city, except the Market House, and Ship Channel issues, is hereby ratified and confirmed.

Sec. 2. The requirements of said bondholders being such as to demand immediate action of the authorities of said city, it is declared an emergency, and this act shall be deemed as a part of an amendment to the charter of said city, which has a population of over ten thousand, and shall take effect from and after its passage.

Approved May 30, 1876.

Takes effect from its passage.

CHAPTER III.—An Act to provide for the expenses and compensation of the Commission appointed by his Excellency, Governor Coke, April 10, 1875, to investigate the management of the State Penitentiary, and to make an appropriation therefor.

Section 1. Be it enacted by the Legislature of the State of Texas, That there be allowed and paid to each member of the Commission appointed by the Governor, April 10, 1875, to investigate the management of the State Penitentiary, and to George Gibbons, the Clerk thereof, all traveling and other necessary expenses incurred by them while actually engaged in such investigation and in the preparation of the report thereof, not to exceed, however, in each case, the sum of one hundred and fifty dollars.

Sec. 2. Be it further enacted, That in addition to the expenses mentioned and provided for in the preceding section, that there shall be allowed and paid to Tillman Smith and D. H. Triplett, members of said Commission, each the sum of four hundred and eighty dollars, and to George Gibbons, the Clerk thereof, the sum of three hundred and twenty dollars, for sixty days' service rendered by the said Smith and Triplett, and forty days' service rendered by the said Gibbons in the matter of said investigation, and the preparation of the report thereof; and that upon the approval by the Governor of the accounts for expenses as mentioned in section one of this act, and upon the filing of the same with the Comptroller of the State, it is hereby made the duty of said Comptroller to draw his warrant upon the Treasurer in favor of each member of said Commission and the said Gibbons for the amount of expenses so approved, and for the compensation and per diem of the said Smith, Triplett and Gibbons, as provided in this section; and it shall be the duty of the Treasurer of the State, and he is hereby authorized, to pay the same out of any moneys not otherwise appropriated; and for this purpose two thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of the State Treasury.

Sec. 3. That this act take effect and be in force from and after its passage, an emergency existing therefor, which emergency is that the amounts herein appropriated have been long past due, and the persons herein mentioned ought at once to be reimbursed in their expenses and paid for their services.

Approved June 15, 1876.

Takes effect from its passage.

CHAPTER IV.—An Act for the relief of the Tyler Tap Railroad Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That the time in which the Tyler Tap Railroad Company is required to construct its road, or any part thereof, by its acts of incorporation and the several general acts extending the time for its construction, is hereby extended for the period of one year.

Sec. 2. Whereas, the time in which the first section of twenty miles of said railroad is required to be constructed will expire with the adjournment of this Legislature; and, whereas, it is not within the power of the said company to complete said section of twenty miles within that time, an imperative public necessity and emergency exists that this act take effect from its passage; therefore, that this act take effect and be in force from and after its passage.

Sec. 3. This extension is only granted on condition that said company shall, on or before the first day of October, 1876, file with the Secretary of State a complete acceptance of all the provisions of the Constitution applicable to railroads, including the legislative power of this State to regulate rates of fare and charges on said road by general law.

Approved July 12, 1876.

Takes effect from its passage.

CHAPTER V.—An Act to authorize the corporation of the city of Houston to improve and protect the navigation of Buffalo Bayou.

Section 1. Be it enacted by the Legislature of the State of Texas, That the corporation of the city of Houston is hereby authorized to exercise all the necessary power and authority, in such manner as it may think proper, to deepen, widen, and otherwise improve the navigation of Buffalo Bayou, from the mouth of Simm's Bayou to any point within the limits of said corporation, and for that purpose said corporation is authorized to cut, clear, and remove from said Buffalo Bayou and its banks, all the necessary timber, earth, and other material, and to make such cuts, excavations, cut-offs, locks, dams, and other changes in the natural course of said bayou, as may be necessary to deepen, widen, straighten said bayou, and otherwise improve the navigation thereof; and whenever it may become necessary, in making said improvements in said bayou, to use any private property, said corporation is hereby authorized to condemn and appropriate such property in the manner provided by the laws of the State for other internal improvements; and for the purpose of defraying the expense of said improvements, as contemplated in this section, said corporation is hereby authorized to raise money by the sale of its bonds or other obligations, or otherwise, not to exceed two hundred thousand dollars in any one year, and to levy and collect an annual tax, not to exceed one per cent. per annum, on all taxable property situated within the corporate limits of said corporation. And that the said City Council of said corporation shall elect three discreet and intelligent citizens of said corporation to act as a Board of Navigation Commissioners, whose duty it shall be to supervise the improvement of said bayou as herein contemplated, to employ a competent engineer, and shall approve of all contracts and expenditures of money pertaining thereto, and shall perform such other duties as shall be prescribed by said City Council, and shall be subject to its removal. That whenever the said corporation of the said city of Houston shall issue bonds to carry into effect the object of this act, it shall provide by taxation

for a sufficient amount to pay the interest thereon, and at least two per cent. sinking fund to liquidate the principal of said bonds; provided, that where private property is taken, damaged or injured by such improvements, compensation shall first be made to the owners of the property so taken, damaged or injured, before said improvements are made.

Sec. 2. That the said corporation of the said city of Houston is hereby further authorized, for the purpose of protecting the navigation of said bayou, to keep said bayou free from obstructions to navigation, and to punish to the extent of its police jurisdiction any person or corporation who shall obstruct or attempt to obstruct, in any way, said bayou or the navigation thereof, and may institute and prosecute to final judgment any legal remedy as may be necessary to prevent or remove any obstruction to said bayou, or its navigation, as well as to sue for and recover any damages which may accrue to said city or its commerce, by reason of any obstruction to said bayou; provided, that said corporation shall have no power or authority to prevent, or in any manner interfere with the construction and operation of any rail road, or other bridges or ferries across said bayou, or in any other improvements along the banks thereof, now existing, or that may hereafter be established and erected by any person, firm or corporation in such manner as not to interfere with navigation on said bayou; provided, further, that nothing in this act shall be so construed as to affect the chartered privileges of the town of Harrisburg.

Approved July 13, 1876.

Takes effect ninety days after adjournment.

CHAPTER VI.—An Act for the relief of the Sherman, Tyler and Henderson Railroad Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That the time in which the Sherman, Tyler and Henderson Railroad Company is required to construct the first twenty miles of its road, by its act of incorporation, and the several general acts extending the time for its construction, is hereby extended for the period of one year from and after the passage of this act.

Sec. 2. That the extension herein granted is upon the express condition that said company shall, on or before the first day of October, 1876, file with the Secretary of State a complete and full acceptance of all the provisions of the Constitution applicable to railroads, including the legislative power of this State to regulate rates of fare and charges on said railroad by general law.

Sec. 3. Whereas, the time within which the first section of twenty miles of said road is required to be constructed will expire on the sixth of October, 1876; and, whereas, it is not within the power of the Company to complete said section of twenty miles within that time, an imperative public necessity and emergency exist for granting immediate relief to said company, and that, therefore, this act take effect and be in force from and after its passage.

Approved July 28, 1876.

Takes effect from its passage.

CHAPTER VII.—An Act for the relief of the Sherman, Wichita and Pan Handle Railroad Company.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That the

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time in which the Sherman, Wichita, and Pan Handle Railroad Company is required to construct the road from Sherman to Gainesville, by its acts of incorporation and the several general acts extending the time for its construction, is hereby extended for the period of one year from and after the passage of this act.

Sec. 2. That the extension herein granted is upon the express condition that said company shall, on or before the first day of October, 1876, file with the Secretary of State a complete and full acceptance of all the provisions of the Constitution applicable to railroads, including the legislative power of this State to regulate rates of fare and charges on said road by general law.

Sec. 3. Whereas, the time within which the said road is required to be constructed from Sherman to Gainesville will expire on the 22d day of October, 1876; and, whereas, it is not within the power of the company to complete said portion of road within that time, an imperative public necessity and emergency exists for the granting of immediate relief to said company, and that, therefore, this act take effect and be in force from and after its passage.

Approved July 29, 1876.

Takes effect from its passage.

CHAPTER VIII.—An Act for the relief of the Dallas and Wichita Railroad Company.

Whereas, Railroad communication with the States has been cut off, and the transportation of freight therefrom entirely suspended for several weeks past, on account of the destruction of bridges and road-bed by floods, making it impossible for the Dallas and Wichita Railroad Company to secure the transportation of their iron from Saint Louis, Mo., to Dallas, Texas, in time to meet the requirements of their charter and the laws of the State; and,

Whereas, The construction of the Dallas and Wichita Railroad would benefit the entire State by encouraging the settlement of the Northwestern portion of the State, and by greatly increasing the value of the school lands therein located, and by greatly increasing the wealth and taxable property of the State, by insuring the development of the mineral region through which it is located; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the limitation of time required by the charter of the Dallas and Wichita Railroad Company and the laws of the State for the completion of any works of internal improvements or particular sections thereof, be and the same is hereby extended and enlarged for the term of twelve months in addition to the time, from, in and by said charter and laws for the completion of the same.

Sec. 2. That in consequence of the facts set forth in the preamble, and the fact that the charter of said company will become forfeited upon the adjournment of the present session of the Legislature, unless relief be granted, an imperative public necessity and an emergency exists, requiring that this act take effect immediately; therefore, this act shall take effect and be in force from and after its passage; provided, that said company shall file with the Secretary of State, a full and complete acceptance of the conditions imposed upon railroad corporations by the Constitution, within ninety days after the adjournment of this Legislature, and in case of failure to comply, this act shall be null, void

and of no effect; provided further, that said company shall not be entitled to the relief sought in this act, unless said company shall file with the Secretary of State, within ninety days from the passage of this act, their relinquishment of all over sixteen sections of land to the mile of said road.

Approved July 29, 1876.

Takes effect from its passage.

CHAPTER IX.—An Act granting an extension of time to the Texas and Mexican Pacific Railroad Company, for the construction of its road.

Whereas, The Texas and Mexican Pacific Railroad Company, whose office is at Rockport, Aransas County, Texas, have been delayed in the construction of said road by the financial crisis, which but recently swept the country; and,

Whereas, the country through which this proposed road passes is entirely destitute of the facilities for transportation necessary to its development; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the time in which the Texas and Mexican Pacific Railroad Company is now required by law to construct its railroad, or any section thereof, is hereby extended and enlarged for an additional period of two years.

Sec. 2. That as a matter of general interest, an imperative public necessity exists for the passage of this act, that this act go into effect from and after its passage.

Approved July 31, 1876.

Takes effect from its passage.

CHAPTER X.—An Act granting further time to the Corpus Christi, San Diego and Rio Grande Narrow Gauge Railroad Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That the time within which said company is now required by law to construct their said railroad, or any section thereof, is hereby extended and enlarged for an additional period of two years.

Sec. 2. That this act shall take effect and be in force from and after ninety day after the adjournment of this Legislature.

Approved August 2, 1876.

Takes effect ninety days after adjournment.

CHAPTER XI.—An Act to incorporate the City of Galveston and to grant a new charter.

TITLE I.

ARTICLE I.

Section 1. Be it enacted by the Legislature of the State of Texas, That all the inhabitants of the city of Galveston shall continue to be a body politic and corporate, with perpetual succession, by the name and style of the "City of Galveston;" and as such, they and their successors by that name shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises now possessed and enjoyed by said city and herein granted and conferred, and shall be subject to all the duties and obligations now pertaining to or incumbent on said city as a corporation, and may ordain and establish such acts, laws, regulations

and ordinances, not inconsistent with the Constitution and laws of this State, as shall be needful for the government, interest, welfare and good order of said body politic; and under the same name shall be known in law, and be capable of contracting and being contracted with, suing and being sued, implead and being impleaded, answering and being answered unto in all courts and places, and in all matters whatever; may take, hold and purchase, lease, grant and convey such real and personal or mixed property or estate as the purposes of the corporation may require, within or without the limits thereof, and may make, have and use a corporate seal, and change and renew the same at pleasure.

ARTICLE II—CITY LIMITS.

Sec. 2. That the limits of said city shall embrace so much of the Island of Galveston from the point thereof on the east to Fifty-sixth street, or to include the league and labor of land known as the Menard grant; provided, that said league and labor shall extend beyond Fifty-sixth street; thence to include Galveston Bay and Pelican Island, and one mile north thereof, so as to extend the police authority and jurisdiction, inclusive of Pelican Island, over all the area and territory aforesaid; provided, nevertheless, that jurisdiction shall extend from the eastern boundary of said city over all real estate beyond said limits, purchased by said city for the use of the corporation; and provided, furthermore, that all the municipal regulations of said city shall apply to, extend and be in full force over the harbor and anchorage of Galveston, and to the bar at the entrance of said harbor; and the corporate authority and jurisdiction shall extend from the eastern boundary of said city over the east end of Galveston Island, and over all real estate beyond said limits purchased by said city for the use of the corporation; and provided, further, that the said limits may be hereafter extended, including and adding more territory to the same, whenever a majority of the inhabitants of said territory shall indicate a desire to be included within the limits of said city; and provided, further, that neither the corporate limits nor the jurisdiction of said city shall extend to any point of the mainland; and provided, further, that the jurisdiction of said city shall not extend over Bolivar Channel, except for police and sanitary purposes.

TITLE II.

ARTICLE I—OFFICERS AND THEIR ELECTION.

Sec. 3. The municipal government of the city shall consist of a City Council, composed of the Mayor and one Alderman from each ward. A majority of the Aldermen elected shall constitute a quorum for the transaction of business, except at called meetings or meetings for the imposition of taxes, when three-fourths of the Aldermen elected shall be required, unless herein otherwise specified. The other officers of the corporation shall be a Recorder, a Treasurer, an Assessor, a Collector, a Clerk, a Chief of Police, a City Engineer (who shall also be a Superintendent of Streets), an Auditor, a Health Physician, and such other officers and agents as the City Council may from time to time direct; all of whom, except the Mayor and Aldermen, and except as hereinafter provided, shall be elected by ballot by the Board of Aldermen, at a meeting to be held on the third Monday in March in each year, upon the nomination of the Mayor; or in case no person

shall then be nominated by him, or if the person so nominated shall not be elected, then as soon thereafter as possible, upon the nomination of any Alderman; and shall hold their offices until the third Monday in March thereafter, and until the election and qualification of their successors; and in such election a majority of all the Aldermen elected shall be necessary to a choice.

ARTICLE II—ELECTIONS.

Sec. 4. Elections for Mayor and Aldermen shall be held on the first Monday in March, at such place and places as the City Council may direct, and of which thirty days' previous notice shall be given by publication in one or more newspapers of said city. Said elections shall be ordered by the City Council or Mayor. For the purpose of holding such elections, and others ordered, the City Council shall appoint annually in April, or earlier, in each ward, some competent and suitable person, who shall be the presiding officer at all elections held in his ward. The presiding officer of each ward shall select two judges and two clerks, who, together with the presiding officer, shall be managers of the elections. The presiding officers and judges must be qualified voters in the city. The City Council shall provide for their compensation, and by ordinance regulate and define their powers and duties, and determine the hours of opening and closing the polls. The Mayor, whenever an election is ordered, shall give the required notice, and issue to the presiding officer a writ of election; and every published notice of election shall state the officer or officers to be elected, the place where the election will be held, and the name of the presiding officer thereat. In case the officer so appointed is unable, fails, refuses or neglects to act, or the City Council have failed to appoint, the Mayor shall appoint; and in case no appointed presiding officer appears to open the polls, the attending qualified electors at the place for holding such election, may appoint such officer, who shall perform the same duties and shall have like power and authority to act, as a first appointee; but in such case, the managers, in their returns or otherwise, shall certify that the presiding officer failed to attend or neglected to act, and that the person acting as such was duly chosen by the electors present; provided, that if from any cause an election can not be or is not held on the day aforesaid, such election shall be held as soon thereafter as the order can be made and the necessary notice given; and the City Council shall have full authority to designate the day for such election; and provided, further, that the presiding officer for the first election under this act may be appointed at any time thirty days prior to such election.

ARTICLE III.

Sec. 5. At the first annual election there shall be elected by the qualified voters of said city, voting by ballot, a Mayor, who shall hold his office for two years from the date of said election, and until his successor shall be elected and qualified. At the same time there shall be elected, by the qualified voters of each ward, one Alderman from each ward of the city; of whom those elected in the odd numbered wards shall hold their offices for one year, and those elected in the even numbered wards shall hold their offices for two years from the day of their election, and until their successors shall be elected and qualified; and every year thereafter Aldermen shall be elected in the wards in which

the terms of the incumbents are about to expire, and the Aldermen so elected shall hold their offices for two years from the day of their election, and until their successors shall be elected and qualified. The person receiving the highest number of votes in the whole city for Mayor, shall be declared to be elected; and the persons receiving the highest number of votes cast for Aldermen in their respective wards shall be declared duly elected. In case the person elected Mayor shall refuse to accept the office, the City Council, Mayor, or Acting Mayor, shall order another election; and in case of vacancy in the office of Mayor by death, resignation, removal or otherwise, it shall be filled for the remainder of the term by a new election, to be ordered by the Acting Mayor or City Council. And in case of vacancy in the Board of Aldermen by a refusal to accept or qualify, or by death, resignation, removal or otherwise, the Mayor or Acting Mayor, or City Council, shall order a new election to fill the residue of the unexpired term. And all special elections shall be conducted in the same manner as herein provided for the annual election; provided, that in special elections, five days' notice thereof shall be deemed sufficient.

ARTICLE IV.

Sec. 6. The manner of conducting and voting at said elections to be held under this act, and contesting the same, the keeping of the poll lists, canvassing of the votes and certifying the returns, shall be the same as nearly as may be as is now, or may hereafter be, provided by law, at general State elections; provided, the City Council shall have full power and authority to regulate elections and pass all ordinances in relation thereto, not inconsistent with the general laws of the State, which they may deem proper and necessary, and to prescribe what action shall be had in the event of there being no annual election, or a failure to elect the officers, or any of them, for which any election was ordered; and to prescribe the manner and mode of determining contested elections. The voting shall be by ballot, and the managers shall take the same oath and shall have the same power and authority, as managers of general State elections. After closing the polls, the ballots shall be counted in the manner required by law; and the returns, including the ballots, shall be returned sealed to the City Clerk within three days after the election; and within five days from the election, the City Council shall meet and canvass the same, and declare the result of the election; or, failing to meet at the specified time, shall proceed to canvass said returns at their next subsequent meeting. It shall be the duty of the City Clerk to notify all persons elected or appointed to office, of their election or appointment, and unless such persons shall respectively qualify within five days thereafter, the offices shall become vacant, except in case of sickness or unavoidable absence. The City Council shall meet at the usual place of meeting, at 4 o'clock p. m., on the second Wednesday after the first Monday of March, or as soon thereafter as possible, and the newly elected members shall be installed under the provisions of this act.

ARTICLE V.

Sec. 7. That every person entitled to vote for members of the Legislature of this State, who shall have resided within the limits of said city for six months next preceding the election, shall be entitled to vote for Mayor and Aldermen of said city; provided, that no person belonging to the regular army or navy of the United States shall be so enti-

tled. But in all elections to determine expenditures of money or assumption of debt, only those who pay taxes on property in the city shall vote; their qualification to be ascertained by an inspection of the assessment rolls; provided, that no poll-tax for the payment of debt thus incurred shall be levied on the persons thus debarred from voting in relation thereto.

ARTICLE VI.

Sec. 8. The Managers of Elections shall be sworn to well and truly conduct the election, without partiality or prejudice, and agreeably to law, according to the best of their skill and understanding; which oath shall be administered to the Judges and Clerks by the presiding officer. The presiding officer shall be sworn to discharge the duties of presiding officer of elections to the best of his skill and understanding, which oath shall be administered by the Mayor, City Clerk, or any Justice of the Peace.

ARTICLE VII.

Sec. 9. Whenever it so happens in any election that there is a tie between two or more candidates receiving the highest number of votes, for the same office, the City Council or Mayor shall declare such election void as between such candidates only, and immediately order a new election for the office, first giving not less than five days' notice thereof.

ARTICLE VIII.

Sec. 10. No person shall be eligible to the office of Mayor, Recorder, Alderman, or any other office in said city, unless he be a qualified voter therein; and no person shall be eligible as Alderman from any ward unless he be a qualified voter in said ward, and a removal from said ward during the term for which he was elected, shall vacate his office.

TITLE III.

ARTICLE I—POWERS AND DUTIES OF OFFICERS.

Sec. 11. Every person elected by the voters of said city, to fill any office, or by the City Council, under this act, shall, before he enters on the duties of his office, take and subscribe the official oath prescribed in the Constitution of this State, and the City Council may, by ordinance, require such additional oath as they may deem best calculated to secure faithfulness in the performance of their duties by such officers.

ARTICLE II—MAYOR.

Sec. 12. The Mayor of the city shall be taken and deemed to be ex-officio Chief of Police within said city, and, as such, shall maintain peace and good order. He shall be the chief executive officer of said corporation, and shall be vigilant and active at all times in causing the laws and ordinances of said city to be duly executed and put in force. He shall inspect the conduct of all subordinate officers in the government thereof, and, as far as it may be in his power, shall cause all negligence, carelessness, and positive violations of duty, to be prosecuted and punished. He shall have power, whenever in his judgment the good of the city may require it, to summon meetings of said City Council, and he shall from time to time communicate to said body all such information, and recommend all such measures as may tend to

the improvement of the finances, the police, health, security, cleanliness, comfort, ornament, and good government of said city.

ARTICLE III.

Sec. 13. That whenever the Mayor shall deem it necessary, in order to enforce the laws of the city, or to avert danger, or protect life or property, in case of riot, or any outbreak, or calamity, or public disturbance, or when he has reason to fear any serious violation of law or order, or any outbreak, or any other danger to said city, or the inhabitants thereof, he shall summon into service, as a special police force, all or as many of the citizens as in his judgment and discretion may be necessary and proper, and such summons may be by proclamation, or order addressed to the citizens generally, or those of any ward of the city, or subdivision thereof, or such summons may be personal notification; such special police, while in service, shall be subject to the orders of the Mayor, shall perform such duties as he may require, and shall have the same power while on duty as the regular police force of said city; and any person so summoned and failing to obey, or appearing and failing to perform any duty that may be required by this act, shall be fined in a sum not exceeding one hundred dollars.

ARTICLE IV.

Sec. 14. The Mayor shall preside over the meetings of the City Council, but shall have no vote, unless there is a tie, in which case he shall give the casting vote. He shall have like power with a Justice of the Peace to administer oaths of office, and also all other oaths and affirmations, and to give certificates thereof. He shall possess and execute in the city, in criminal cases, all the powers and duties of a Justice of the Peace. He shall be compensated for his services by a salary of not more than three thousand dollars per annum, to be fixed by the City Council, payable at stated periods, and shall receive such fees as may be allowed by law, which fees shall be paid into the City Treasury. He shall have power to dismiss and discharge any member of the police (except the Chief of Police), and to suspend any officer holding an office created by this charter, or any ordinance of the city (except Alderman), and may temporarily appoint a suitable person to perform the duties of the officer so suspended until the cause of such suspension can be acted on by the City Council, and may fill by appointment any vacancy so occasioned. He shall have authority, in case of a riot, or any unlawful assemblage, or with a view to preserve peace and good order in said city, to order and enforce the closing of any theatre, ball-room, grog-shop, tippling house, bar-room, or other place of resort, or public room or building, and may order the arrest of any person violating, in his presence, the laws of the State, or any ordinances of the city, and he shall perform such other duties, and possess and exercise such power and authority as may be prescribed and conferred by the City Council.

ARTICLE V.

Sec. 15. In case of a vacancy in the office of Mayor, or of his being unable to perform the duties of his office, by reason of temporary or continued absence or sickness, the Board of Aldermen shall appoint, by ballot, by a majority of all the Aldermen present, one of their number to act in his stead, whose official designation shall be, Acting Mayor; and the Alderman so appointed shall be invested with all the powers,

and shall perform all the duties of Mayor of the city, and shall receive the salary of Mayor during such vacancy; provided, it shall continue for ten days or longer; and during that time the Mayor shall receive no salary; and during such temporary exercises of the functions of Mayor, it shall be the duty of the Acting Mayor to daily report his presence at the City Clerk's office; and he shall continue to exercise such functions until such time as the Mayor shall report in person at the City Clerk's office, and duly record his presence in writing, or until the Acting Mayor shall be removed by the Board of Aldermen, as provided by this charter; but he shall not vote as an Alderman while acting as Mayor.

ARTICLE VI.

Sec. 16. All ordinances and resolutions adopted by the City Council, before they take effect, shall be placed in the office of the City Clerk; and, if the Mayor approve thereof, he shall sign the same, and such as he shall not sign he shall return to the City Council with his objections thereto. Upon the return of any ordinance or resolution by the Mayor, the vote by which the same was passed shall be reconsidered; and if, after such reconsideration, two-thirds of the Aldermen present agree to pass the same, it shall be in force; and if the Mayor shall neglect to approve or object to any such proceedings for a longer period than three days after the same shall be placed in the Clerk's office, as aforesaid, the same shall go into effect.

ARTICLE VII—RECORDER.

Sec. 17. That the Recorder of said city shall be the chief judicial magistrate thereof, and as such, shall hold a court within said city by the name of the Recorder's Court of the City of Galveston; which said court shall have jurisdiction and cognizance of all misdemeanors, breaches of the peace, infractions of the ordinances, and all other causes arising under the laws of said city, and shall be deemed always open for the trial of such cases. The said court shall have full power, authority and jurisdiction in all cases arising under the ordinances of said corporation, and over any breaches and violations thereof, and of any and all persons thus offending, and to try and determine all suits and actions, and complaints charging a violation of any ordinance of said city; and may grant new trials on motion, in writing, showing sufficient cause, and duly sworn to. The Recorder may require of any person arrested under the provisions of this act, a bond for his or her good behavior, and to keep the peace, with two good and sufficient sureties; which bond shall be payable to the city of Galveston. He shall have full power and authority to issue subpoenas for witnesses, and to compel their attendance by process of attachment. He may punish all contempts by fine and imprisonment, or either; may issue subpoenas, writs of *habeas corpus*, warrants of arrest, search warrants, executions, and all other processes known to the law, which a Justice of the Peace of this State may lawfully issue; and all of said writs and process shall be issued, served and executed under the same forms, and in the same manner, as the like process would be when issued by a Justice of the Peace, unless herein otherwise provided. He shall also have full power and authority to administer official oaths, and all oaths or affirmations, and give certificates thereof. The Recorder shall be ex-officio Justice of the Peace; and he shall possess and execute, in the city, in criminal cases,

the powers and duties of such officer, and shall have the same au-

thority and like powers with Justices of the Peace in the prevention and suppression of crime; provided, that, in no case, shall he entertain jurisdiction in civil cases. The City Council may determine what costs shall be charged in proceedings in and for all process issued in said court, and shall allow the Judge thereof, for his services a salary, payable at stated periods, not to exceed twelve hundred dollars per annum; and the Recorder shall perform such other duties as may be prescribed by any ordinances of said corporation that may properly and lawfully be required of said officer, as the Judge of said court, and are not inconsistent with the laws and Constitution of this State; provided, that all moneys collected from fines, of whatever character, imposed by the Recorder, shall be paid into the City Treasury for the use of the city.

ARTICLE VIII—CHIEF OF POLICE.

Sec. 18. The Chief of Police shall, either in person or by deputy, attend upon the Recorder's Court while said Court is in session, and shall promptly and faithfully execute all writs and process issued from said Court. He shall be the chief police officer of the city, under the Mayor. He shall have like power with the Sheriff of the county to execute the writ of search warrant. He shall be active in quieting riots, disorders, and disturbances of the peace within the limits of said city, and shall take into custody all persons so offending against the peace of the county, and he shall have authority to take suitable and sufficient bail for the appearance before the Recorder's Court, of any person charged with an offense against the ordinances or laws of the city. It shall be his duty to arrest all violators of the public peace, and all persons who shall obstruct or interfere with him in the execution of the duties of his office, or who shall be guilty of disorderly conduct or disturbances whatsoever. To prevent a breach of the peace, or preserve quiet and good order, he shall have authority to close any theatre, bar-room, ball-room, drinking house, or any other place or building of public resort; and in the prevention and suppression of crime and arrest of offenders, he shall have, possess and execute like power, authority and jurisdiction as the Sheriff of a county, under the laws of the State. He shall receive a salary, to be fixed by the City Council, not to exceed two thousand dollars per annum. The Chief of Police shall give such bond for the faithful performance of his duties as the City Council may require, and he shall perform such other duties and possess such other powers, rights and authority as the City Council may by ordinance require and confer, not inconsistent with the Constitution and laws of this State.

ARTICLE IX—CITY ENGINEER.

Sec. 19. The powers, duties and qualification of the City Engineer and salary for his services shall be prescribed by the City Council, not to exceed twenty-five hundred dollars per annum.

ARTICLE X—CITY CLERK.

Sec. 20. That it shall be the duty of the City Clerk to attend every meeting of the City Council, and keep accurate minutes of the proceedings thereof in a book to be provided for that purpose; to engross and enroll all laws, resolutions and ordinances of the City Council; to keep the corporate seal; to take charge of, preserve and keep in order all books, records, papers, documents and files of said Council; to counter-

sign all commissions issued to city officers and licenses issued by the Mayor, and keep a record or register thereof, and to make out all notices required under any regulation or ordinance of the city. He shall draw all warrants on the Treasurer, to be signed by the Mayor and by the Auditor, and countersign the same, and keep an accurate account thereof in a book to be provided for that purpose. He shall also be Clerk of the Recorder's Court, and shall have custody of all books and papers belonging to said court. He shall make out all process and writs, and enter upon a docket all complaints for violation or infraction of city ordinances before the Recorder, and his judgment and sentence therein. He shall have power and authority to administer all oaths and affirmations. The City Clerk shall be the general accountant of the corporation, and shall keep in books regular accounts of all receipts and disbursements for the city, and separately, under proper heads, each cause of receipt and disbursement; and also accounts with each person, including officers, who have money transactions with the city, crediting amounts allowed by proper authority, and specifying transactions to which such entries apply. He shall also keep a register of bonds and bills issued by the city, and all evidence of debt due and payable to it, noting the particulars thereof, and of all facts connected therewith as they occur. He shall carefully keep all contracts made by the city, and he shall do and perform all such other duties as may be required of him by any law, ordinance, resolution or order of the City Council. He shall receive for his services such annual salary as may be allowed by the City Council, not to exceed eighteen hundred dollars per annum; and for the faithful discharge of his duties he shall give bond, with good security, to the city for such sum as may be required by the City Council, not less than two thousand dollars.

ARTICLE XI—TREASURER.

Sec. 21. The Treasurer of said city shall give bond in favor of the city of Galveston in such amount and in such form as may be required by the City Council, not less than fifty thousand dollars, and with sufficient sureties, conditioned for the faithful discharge of his duties. He shall receive and securely keep all moneys belonging to the city, and make all payments for the same, upon the order of the Mayor, attested by the Clerk and Auditor, and the seal of the corporation. He shall keep regular and correct accounts of the real, personal and mixed property of the city, and shall render a full and correct statement of his receipts and payments to the City Council at their regular meeting in every quarter, and whenever at other times he may be required by them to do so; and at the end of every half year, he shall cause to be published, at the expense of the city, a statement, showing the amount of receipts and expenditures for the six months next preceding, and the general condition of the Treasury, and he shall do and perform such other acts and duties as the City Council may require, and for his services he shall receive such salary as shall be fixed by the City Council, not to exceed twelve hundred dollars per annum.

ARTICLE XII—ASSESSOR AND COLLECTOR.

Sec. 22. That the Assessor of the city shall make up all the assessments of all property taxed by the city, including license and occupation taxes, and make duplicate rolls thereof, and on completion of the rolls, and when accepted by the City Council, after twenty days'

public notice, shall deliver one of them to the Collector, and the other to the Auditor; provided, also, that supplemental rolls may be handed in from time to time, as may be prescribed by ordinance. The Collector shall collect all taxes due the city, and in the event of non-payment of any taxes or licenses, shall proceed to sell property to raise the amount of taxes so due, and shall, in the performance of his duties, observe the provisions of this act, and the ordinances of the city relating thereto. He shall give bond in such amount, and in such form, as the City Council may provide, not less than twenty-five thousand dollars (\$25,000.00), with good and sufficient sureties, and the City Council may require a new bond whenever, in their opinion, the existing bond is insufficient, and whenever such bond is required, he shall perform no official act until said bond shall be given and approved. He shall, at the expiration of every week, pay to the Treasurer all money by him collected, and shall report to the City Council, at the first meeting of that body in every month, all moneys so collected and paid, and he shall perform such other duties, and in such manner, and according to such rules and regulations as the City Council may prescribe. The Assessor shall receive for his services an annual salary or commission not to exceed two thousand dollars, and shall give security to the city for the faithful discharge of his duties in an amount not less than ten thousand dollars. The Collector shall receive for his services an annual salary or commission not to exceed twenty-four hundred dollars, and shall give bond, with good security, to the city for such sum as may be required by the City Council, and not less than twenty-five thousand dollars. The Assessor is authorized to require the owners of all property subject to taxation to render a correct account of the same, under oath, to be administered by him.

ARTICLE XIII—AUDITOR.

Sec. 23. It shall be the duty of the Auditor to examine in detail all bills, accounts and claims against the city, and if found correct, sign his name in approval; but if found incorrect, he shall return them to the appropriate committee or the City Council, with his objections thereto. It shall also be his duty to examine the books of all officers of the city, and if they should be found incorrect, to make a report of the same to the City Council; and he shall render such other services from time to time as the City Council may direct, and shall receive for his services such compensation as the City Council may determine, not to exceed eighteen hundred dollars per annum, and shall give bonds for the faithful performance of his duties in the sum of ten thousand dollars.

ARTICLE XIV—OFFICERS.

Sec. 24. The City Council shall have power from time to time to require further and other duties of all officers whose duties are herein prescribed, and to define and prescribe the powers and duties of all officers appointed or elected to any office under this act, whose duties are not herein specially mentioned, and fix their compensation when not herein fixed. They may also require bonds to be given to the said corporation, by all officers, for the faithful performance of their duties. The City Council shall provide for the filling of vacancies in all offices not herein provided for, and in cases of vacancy, the same shall be filled only for the unexpired term.

TITLE IV.

ARTICLE I—CITY COUNCIL, POWERS AND DUTIES.

Sec. 25. The Mayor and Aldermen shall constitute the City Council of said city. The City Council shall meet at such times and places as they shall by resolution direct. The Mayor, when present, shall preside at all meetings of the City Council, and shall have in all cases a casting vote, except in elections; in his absence any one of the Aldermen may be appointed to preside.

ARTICLE II.

Sec. 26. The City Council shall hold stated meetings, and the Mayor may, of his own motion, or on the application of three Aldermen, call special meetings by notice to each of the members of said Council, served personally or left at their usual place of abode. Petitions and remonstrances may be presented to the Council in writing only, and the Council shall determine the rules of its own proceedings, and be the judge of the election and qualification of its own members, and punish them for disorderly conduct, and with the concurrence of two-thirds of the Aldermen elected, may expel a member.

ARTICLE III.

Sec. 27. The City Council shall have the management and control of the finances and other property, real, personal and mixed, belonging to the corporation, and shall likewise have the power within the jurisdiction of the city, by ordinance, to remove and prevent all obstructions in the bay and channel thereof within said city, and the limits heretofore mentioned, and to improve and preserve the navigation thereof; and to erect, repair and regulate wharves, and to regulate the rates of wharfage; provided, the provisions of this clause relating to wharves shall apply to property owned and controlled by the city.

Sec. 28. That the City Council shall not borrow, for general or special purposes, more than fifty thousand dollars in any one year.

Sec. 29. The City Council shall have power to appropriate money to provide for the payment of the debts and expenses of the city. In the month of January of each year it shall make a careful estimate of all the probable revenues of the city for the ensuing year, and shall provide for the disbursement and expenditure of the same, as follows:

First—It shall set apart and appropriate to the payment of the interest upon out-standing bonds, such amounts as shall have been prescribed by ordinances for that purpose; and shall also set apart and appropriate to the creation and maintenance of sinking funds, for the redemption of said bonds, such amounts as shall have been prescribed by ordinances for that purpose; which said sinking funds shall be invested in bonds of said city, in bonds of the State of Texas, or in bonds of the United States, as said Council may from time to time determine.

Second—It shall reserve a fund of twenty-five thousand dollars, to be used only in cases of extraordinary emergency, which could not have been foreseen before their occurrence; but in no event to be used for the ordinary expenses of the city; and whenever there shall remain unexpended any portion of such reserve fund, the same shall constitute a part of such reserve fund for the next ensuing year.

Third—It shall apportion the remainder of the estimated revenues to the several departments of the city government for its general expenses.

Any member of the City Council, who shall knowingly vote for, or in any manner aid or promote the passage or adoption of any ordinance, resolution or other act of the City Council, increasing the appropriations for the expenses of the city, beyond the estimate aforesaid, unless the actual revenues shall have exceeded such estimate, and in such event beyond such actual revenues, shall thereby vacate his office; and shall be deemed guilty of malfeasance in office, and upon conviction thereof, shall be punished in the manner and to the extent provided in Section 30 of this act.

Sec. 30. If the Mayor or Acting Mayor shall on and after July 1, 1877, sign any warrant, draft or order for money upon the City Treasurer when there are no funds in the Treasury to pay the same, the officer so signing such warrant, draft or order shall be liable to removal from office.

Sec. 31. To provide by ordinance special funds for special purposes, and to make the same disbursable only for the purpose for which the fund was created, and any officer of the city misapplying said special funds shall be deemed guilty of a malfeasance in office, and shall, on complaint of any one interested in said fund so misapplied, be removed from, and be incapable thereafter to hold any office in said city, and shall on conviction before any court of competent authority, be fined in a sum not exceeding five thousand dollars, and be imprisoned not exceeding six months.

Sec. 32. To make regulations to prevent the introduction of contagious diseases into the city; to make quarantine laws for that purpose, and to enforce them within the city, and within ten miles thereof.

Sec. 33. To provide the city with water; to make, regulate and establish public wells, pumps and cisterns, hydrants and reservoirs, in the streets or elsewhere within said city, or beyond the limits thereof, for the extinguishment of fires and the convenience of the inhabitants, and to prevent the unnecessary waste of water.

Sec. 34. To have the exclusive control and power over the streets, alleys and public grounds and highways of the city, and to abate and remove encroachments or obstructions thereon; to open, alter, widen, extend, establish, regulate, grade, clean, or otherwise improve the same; to put drains and sewers therein, and to prevent the encumbering thereof, in any manner, and to protect the same from any encroachment or injury, and to regulate and alter the grade of premises, and to require the filling up and raising of the same.

Sec. 35. To establish, erect, construct, regulate and keep in repair, bridges, culverts and sewers, sidewalks and crossways, and to regulate the construction and use of the same, and to abate and punish any obstructions or encroachments thereon; and the cost of the construction of sidewalks shall be defrayed by the owners of the lot, or part of lot or block, fronting on the sidewalk; and the cost of any sidewalk constructed by the city, shall be collected, if necessary, by the sale of the lot, or part of lot or block on which it fronts, together with the cost of collection, in such a manner as the City Council may, by ordinance, provide; and a sale of any lot, or part of lot or block, to enforce collection of cost of sidewalks, shall convey a good title to the purchaser, and the balance of the proceeds of sale, after paying the amount due the city, and cost of sale, shall be paid by the city to the owner; provided, that all improvements of sidewalks shall be let out by contract to the lowest bidder, and the assessment for payment of same may be made payable in five annual installments.

Sec. 36. To provide for lighting the streets and erecting lamp-posts and lamps therein, and regulate the lighting thereof, and from time to time create, alter or extend lamp districts; to exclusively regulate, direct and control the laying and repairing of the gas-pipes and gas fixtures in the streets, alleys, sidewalks, and elsewhere.

Sec. 37. To establish and erect markets and market-houses, designate, control and regulate market places and privileges, inspect and determine the mode of inspecting meat, fish, vegetables and all produce, and every article and thing therein brought for sale.

Sec. 38. To provide for the inclosing, regulating and improving all public grounds and cemeteries belonging to the city, and to direct and regulate the planting and preserving of ornamental and shade trees in the streets, sidewalks and public grounds.

Sec. 39. To erect and establish one or more hospitals, and control and regulate the same; regulate, or prohibit and punish the establishment of private hospitals.

Sec. 40. To regulate the carrying of weapons, and prevent the carrying of the same concealed.

Sec. 41. To prevent the encumbering of the streets, alleys, side-walks, and public grounds, with carriages, wagons, carts, hacks, buggies, or any vehicle whatever, boxes, lumber, timber, fire-wood, posts, awnings, signs, or any other substance or material whatever, or in any other manner whatever; to compel all persons to keep all weeds, filth and any kind of rubbish from the side-walks and streets and gutters, in front of the premises occupied by them; to require and compel the owners of property to fill up, grade, shell and otherwise improve the side-walks in front of and adjoining their property; also, to inspect the construction of buildings, and to cause unsafe buildings to be made safe or be removed, and to prohibit the use of certain materials deemed unsafe.

Sec. 42. To license, tax and regulate merchants, commission merchants, hotel and inn-keepers, drinking houses or saloons, bar-rooms, beer saloons, and all places or establishments where intoxicating or fermented liquors are sold, brokers, money brokers, real estate agents, insurance agents, insurance brokers and auctioneers, and all other trades, professions, occupations and callings, the taxing of which is not prohibited by the Constitution of the State, which tax shall not be construed to be a tax on property.

Sec. 43. To license, tax and regulate, suppress and prevent hawkers, peddlers, pawnbrokers, and keepers of theatrical or other exhibitions, shows and amusements.

Sec. 44. To license, tax, regulate or prohibit theatres, circuses, the exhibitions of showmen, and of shows of any kind, and the exhibition of natural or artificial curiosities, caravans, menageries and musical exhibitions and performances.

Sec. 45. To license, tax and regulate hackmen, draymen, omnibus drivers and drivers of baggage wagons, porters, and all others pursuing like occupations, with or without vehicles, and prescribe their compensation, and provide for their protection, and make it a misdemeanor for any person to attempt to defraud them of any legal charge for services rendered, and to regulate, license and restrain runners for steamboats, railroads, stages and public houses.

Sec. 46. To license, tax and regulate billiard tables, pin alleys and ball alleys, and to suppress disorderly houses, tippling shops and groceries, gambling and gambling houses, lotteries, and all fraudulent de-

vices and practices, bawdy houses, houses of prostitution or assignation.

Sec. 47. To authorize the proper officer of the city to grant and issue licenses, and to direct the manner of issuing and registering thereof, and the fees and charges to be paid therefor. No license shall be issued for a longer period than one year, and shall not be assignable except by permission of the City Council.

Sec. 48. To restrain, regulate and prohibit the selling or giving away, indirectly to evade a tax or penalty, of any intoxicating or malt liquors, by any person within the city, except by persons duly licensed; to forbid or punish the selling or giving away of any intoxicating or malt liquors, to any minor, apprentice or habitual drunkard.

Sec. 49. To regulate the inspection and vending of fresh meats, poultry, fish, vegetables, fruit, butter, lard and other provisions, and the place and manner of selling fish and inspecting the same.

Sec. 50. To make such rules and regulations in relation to butchers as they may deem necessary and proper.

Sec. 51. To establish standard weights and measures, to be used within the city in all cases not otherwise provided for by law. To require all traders and dealers in merchandise or property of any description, which is sold by weight or measure, to cause their weights and measures to be tested and sealed by the City Sealer, and be subject to his inspection. The standard of such weights and measures shall be conformable to those established by law.

Sec. 52. To regulate the inspection of beef, pork, flour, meal, salt and other provisions; whisky and other liquors to be sold in barrels, hogsheads and other vessels and packages, and of gas meters; to appoint weighers, gaugers and inspectors, and prescribe their duties and regulate their fees; provided, that such officers shall be entitled to no fees, unless required to exercise the duties of their office by and at the request of the parties purchasing, selling or owning such articles; provided, that public weighers appointed by the Governor, under the act of the Fourteenth Legislature, for the City of Galveston, shall in no way be interfered with, and the produce named in said act which they were appointed to weigh, shall not be weighed by the city weighers while said act of the Fourteenth Legislature is in force.

Sec. 53. To regulate the weight and quality of the bread to be sold within the city.

Sec. 54. To create, establish and regulate the police of the city; to appoint watchmen and policemen, and prescribe their duties and powers, giving to the Chief of Police the right of nomination of said watchmen and policemen.

Sec. 55. To provide for the suppression and prevention of any riot, rout, affray, noise, disturbance, or disorderly assembly in any public or private place within the city.

Sec. 56. To prevent, prohibit and suppress horse-racing, immoderate riding or driving in the streets, to prohibit and punish the abuse of animals, to compel persons to fasten their horses or other animals attached to vehicles or otherwise, while standing or remaining in the streets.

Sec. 57. To restrain and punish vagrants, mendicants, street beggars and prostitutes.

Sec. 58. To establish and regulate public pounds, and to regulate, restrain and prohibit the running at large of horses, mules, cattle, sheep,

swine, goats and geese, and to authorize the distraining, impounding and sale of the same for the costs of the proceeding and the penalty incurred, and to order their destruction when they can not be sold, and to impose penalties on the owners thereof for violation of any ordinance, and to impose penalties on the owners or keepers thereof.

Sec. 59. To tax, regulate, restrain and prohibit the running at large of dogs, and to authorize their destruction when at large contrary to ordinance, and to impose penalties on the owners or keepers thereof.

Sec. 60. To prohibit and restrain the rolling of hoops, flying of kites, firing of fire-crackers, use of velocipedes, or use of any pyrotechnic, or any other amusement or practices tending to annoy persons passing in the streets or sidewalks, or to frighten horses or teams; to restrain and prohibit the ringing of bells, blowing of horns and bugles, crying of goods, and all other noises, practices and performances tending to the collecting of persons on the streets and sidewalks, by auctioneers and others, for the purpose of business, amusement or otherwise.

Sec. 61. To do all acts and make all regulations which may be necessary and proper for the promotion of health or the suppression of disease.

Sec. 62. To compel the owner or occupant of any unwholesome or nauseous house or place to cleanse, remove or abate the same as may be necessary for the health, comfort and convenience of the inhabitants.

Sec. 63. To direct the location and regulate the management and construction of breweries, tanneries, blacksmith shops, foundries, livery stables, and any manufacturing establishment; to direct the location and regulate the management and construction of, and restrain, abate and prohibit within the city, slaughtering establishments and hide houses, or establishments for keeping or curing hides, establishments for making soap, for steaming or rendering lard, tallow, offal, and such other substances as may be rendered, and all other establishments or places where any nauseous, offensive or unwholesome business may be carried on.

Sec. 64. To regulate the burial of the dead; to purchase, establish and regulate one or more cemeteries; to regulate the registration of deaths, marriages and births; to direct the returning and keeping of bills of mortality, and impose penalties on physicians, sextons and others, for any default in the premises. No person shall be buried without certificate of physician or post mortem examination.

Sec. 65. To regulate and determine the times and places of bathing and swimming in the waters within said city, and to prevent any obscene or indecent exhibition, exposure or conduct.

Sec. 66. To abate and remove nuisances, and to punish the authors thereof by penalties, fines and imprisonment.

Sec. 67. To erect and establish one or more work-houses, or houses of correction, within or outside the city limits; make all necessary rules and regulations thereof, and appoint all necessary keepers or assistants. In such work-house, or house of correction, may be confined all vagrants, stragglers, idle, suspicious and disorderly persons, who may be committed by the Mayor or Recorder; and any person who shall fail or refuse to pay the fine, penalty or costs imposed for any misdemeanor or breach of any ordinance of the city, may, instead of being committed to jail, be kept therein, subject to labor and confinement.

Sec. 68. To compel and force all offenders against any ordinance of this city, found guilty by the Recorder and sentenced to imprisonment,

to labor on the streets and alleys of said city, or on any public work, under such regulations as may by ordinance be established.

Sec. 69. To prevent all boxing matches, sparring exhibitions, cock and dog fighting, and punish all persons thus offending.

Sec. 70. To prevent all trespasses, breaches of the peace and good order, assaults, assaults and batteries, fighting, quarreling, using abusive and insulting language, misdemeanors, and all disorderly conduct, and punish all persons thus offending.

Sec. 71. To prevent and punish the keeping of houses of prostitution within the city, and to adopt summary measures for the removal or suppression of all such establishments.

Sec. 72. To require the owner, agent, or occupant of any ground, lots, yards, private drains, sinks and privies, to fill up, cleanse, drain, alter, relay, repair, fix and improve the same, as may be necessary to the public health and safety, and as may be required by any resolution or ordinance of said city; and in the event of any failure, neglect or refusal to comply with any such order, or in the event of there being no person in the city on whom such order can be served, the city may have such work done and such improvement made on account of the owner thereof, and all costs, charges and expenses shall be a lien on the property on the filing of a memorandum by the Mayor, under the corporate seal, and the recording of the same in the office of the County Clerk, and the city may institute suit in the corporate name, and enforce said lien and obtain judgment against said party for the amount so due as aforesaid, in any court having jurisdiction.

Sec. 73. To direct and control the laying and construction of railroad tracks, turnouts and switches, or prohibit the same in the streets, avenues and alleys, unless the same shall have been authorized by law, and the location of depot grounds within the city; to require that railroad tracks, turnouts and switches shall be so constructed as to interfere as little as possible with the ordinary travel and use of streets, avenues and alleys, and that sufficient space shall be left on either side of said track for the safe and convenient passage of teams, carriages, and other vehicles and persons, and to construct and keep in repair suitable crossings at the intersection of streets, avenues and alleys, and ditches, sewers and culverts, when the city council shall deem it necessary; to direct the use and regulate the speed of locomotive engines within said city, or prevent and prohibit the use or running of the same within the city.

Sec. 74. The City Council shall have power to assess and collect the ordinary municipal taxes upon city or horse railroads, and to compel said city railroad companies to keep their roads in repair, and to restrain the rate of travel so as not to exceed seven miles per hour, and to compel said city railroads to supply ample accommodation for the safe and convenient travel of the people on any street where their tracks may run. The City Council may enforce these regulations by proper ordinances, with suitable penalties for any violation of said ordinances.

Sec. 75. To preserve the harbor, dredge out, widen and deepen the channel of said harbor, and prevent any use of the same, or any act in relation thereto, inconsistent with the public health, or calculated to render the waters of the same, or any part thereof, impure or offensive, or tending in any degree to fill up or obstruct the same; to prevent and punish the casting, throwing or depositing therein of any stone, shell or other substance, filth, logs or floating matter; to prevent and remove

all obstructions therein, and to punish the authors thereof; to prevent, prohibit and punish the erection of wharves in the channel, or their extension therein; to regulate and prescribe the mode and speed of vessels, steamboats and other crafts entering and leaving the harbor, and of coming to and departing from the wharves, and the disposition of the sails, yards, anchors and other appurtenances thereof, while entering, leaving or abiding in the harbor, and to regulate and prescribe, by such ordinance, such a location of every steamboat, steamship, or other craft, ship, vessel, barge, boat or float, and such changes of station and use of the harbor as may be necessary to promote order therein, and the safety and equal convenience, as near as may be, of all such steamboats, steamships, or other craft, ship, vessel, barge, boat or float, and may impose penalties and imprisonment for any offense against such ordinance, and may appoint one or more Harbor Masters to carry out the powers herein granted and to report any violations of such ordinance to the Recorder.

Sec. 76. To prevent any person from bringing, depositing or having within the limits of said city, any dead carcass, or other offensive or unwholesome substances or matters, and to require the removal or destruction, by any person who shall have placed, or caused the same to be placed, upon or near his premises, or elsewhere, of any substance, or matter, filth, or any putrid or unsound beef, pork or fish, hides or skins of any kind, and on his default to authorize the removal or destruction thereof by some officer of the city; and require the owner of any dead animal to remove the same to such place as may be designated.

Sec. 77. To prevent, regulate and control the driving of cattle, horses and all other animals into or through the city.

Sec. 78. The City Council shall have power to pass, publish, amend or repeal all ordinances, rules and police regulations, not contrary to the Constitution of this State, for the good government, peace and order of the city and the trade and commerce thereof, that may be necessary or proper to carry into effect the powers vested by this act in the corporation, the city government, or any department or officer thereof; to enforce the observance of all such rules, ordinances and police regulations, and to punish violations thereof by fines, penalties and imprisonment in the prison, work-house or house of correction, or both, in the discretion of the court before which conviction may be had; but no fine or penalty shall exceed two hundred dollars, nor the imprisonment more than three months, for any offense, unless a larger fine and longer period of imprisonment is herein allowed; and for any fine, penalty and costs imposed by the Recorder in the trial of any cause or complaint before him, execution may issue to collect such fine and costs, to be levied and executed in the same manner that executions are from the courts of criminal jurisdiction. The same shall be issued by the City Clerk, under the corporation seal, to the Chief of Police, who, in levying on property and selling, shall have like power and authority as the Sheriff of the county in executions issued from the District Court; and the laws of the State, so far as applicable, shall apply to and be in full force and effect, as to the executions issued from the Recorder's Court, and the Chief of Police in executing the same. Any person upon whom any fine or penalty is imposed may be committed until the payment of the same with costs, and in default thereof may be imprisoned in the city prison, or work-house, or house of correction, or may be required to work on the streets or other public work of the city, for

such time and in such manner as may be provided by ordinance; provided, such imprisonment shall not exceed three months, unless a longer period is herein allowed.

TITLE V.

ARTICLE I—ON TAXATION.

Sec. 79. The City Council shall have power within the city, by ordinance, to annually levy and collect taxes not exceeding one and one-half per cent. on the assessed value of all real estate and personal property in the city not exempt from taxation by the Constitution of the State.

ARTICLE II.

Sec. 80. To annually levy and collect a poll tax, not to exceed one dollar, of every male inhabitant of said city over the age of twenty-one years, who has resided therein six months previous to the assessment of said tax.

ARTICLE III.

Sec. 81. The City Council shall have power to levy and collect occupation taxes, both upon natural persons and upon corporations doing any business in said city, and to impose and collect license taxes upon both natural persons and corporations keeping for public or private use, hacks, coaches, carriages, buggies, drays, carts, wagons, street railroad cars or other vehicles employed in said city, or carrying on therein any business, the regulation or restraint of which may be necessary and proper to preserve public order or enforce police regulations; and may require such occupation and license taxes to be paid in advance by such persons and corporations, before carrying on such business or keeping such vehicles as aforesaid, and by suitable penalties punish the violation or evasion of any ordinance or ordinances adopted in pursuance of this section; provided, however, that all such taxes shall be equal and uniform upon the same class of subjects; provided, further, that a separate license shall be taken out for each establishment, occupation, avocation, business, calling, or vehicle; and provided, further, that no occupation taxes levied by the city shall exceed, in any one year, one-half of the amount levied by the State on the same subject for the same period.

ARTICLE IV.

Sec. 82. The City Council shall have power to provide, by ordinance, for the assessing and collecting of taxes aforesaid, and to determine when taxes shall be paid by corporations and when by the individual corporators; provided, no tax shall be levied unless by consent of two-thirds of the Aldermen elected. The license and occupation taxes shall be assessed by the Assessor and collected by the Collector, and shall be paid to that officer by each and every person and firm owing such license, and before engaging in any trade, profession, business, calling, avocation or occupation, subject to said tax; that if any person shall engage in any business, calling, avocation or occupation, which, by an ordinance of said city, is subject to a license tax, without first having obtained said license, he, she, or they shall be liable to imprisonment and a fine of ten dollars for each day such violation of said ordinance may continue, and this section shall apply to all persons

owing any license and failing to pay the same. Said taxes, laid as herein provided, shall not be construed to be a tax on property within the meaning of section twenty-eight of this act.

ARTICLE V.

Sec. 83. That the term, "real estate or property," as used in this act, shall be construed to include lots, lands, and all buildings or machinery, and structures of every kind, erected upon or affixed to the same.

ARTICLE VI.

Sec. 84. That the term, "personal estate or property," as used in this act, shall be construed to include all household furniture, moneys, goods, capital, chattels; all ships, steamboats and vessels, whether at home or abroad; public stocks and stocks of corporations, moneyed or otherwise, and generally all property which is not real.

ARTICLE VII—CITY BONDS.

Sec. 85. Bonds of the corporation of the City of Galveston shall not be subject to tax under this act.

ARTICLE VIII.

Sec. 86. That the City Council may, by ordinance, provide for the exemption from taxation of such property as may be exempted under the Constitution and laws of the State.

ARTICLE IX.

Sec. 87. Nothing contained under the head of taxation shall be construed to prevent the City Council from imposing, levying and collecting special taxes and assessments for the improvement of the harbor, avenues, streets and alleys, as hereinafter provided, after having obtained the consent of the resident owners of the property to be imposed, to the extent of a majority of the frontage, as provided in Sections 125 or 126 of this act.

TITLE VI.

ARTICLE I—COLLECTION OF TAXES.

Sec. 88. That the City Council may and shall have full power to provide, by ordinance, for the prompt collection of all taxes assessed, levied and imposed by this act, or hereby authorized and due, or becoming due to the said city; and, to that end, may and shall have full power and authority to sell real as well as personal property; and may and shall make all such rules and regulations, and ordain and pass all ordinances as they may deem necessary to the levying, laying, imposing, assessing and collecting of any of the taxes herein provided.

ARTICLE II.

Sec. 89. The City Council shall have power, by ordinance, to regulate the manner and mode of making out tax lists or inventories and the appraisement of property therein, and to prescribe the oath that shall be administered to each person on such rendition of property, and to prescribe how and when property shall thus be rendered, and to prescribe the number and form of assessment rolls, and fix the duties and define the powers of the Assessor and Collector, and adopt such meas-

ures as they may deem advisable to secure the assessment of all property within the limits of said city, and collect the tax thereupon; and may by ordinance provide that any person, firm or corporation having property subject to taxation, or being liable for any tax under the provisions of this act, and neglecting and refusing when called upon by the proper officer to render a list, inventory and appraisement thereof, as required by any ordinance of said city, shall be liable to fine and imprisonment.

ARTICLE III—ASSESSMENT.

Sec. 90. Every person, partnership and corporation, owning property within the limits of the corporation, shall, within months after published notice, hand in to the Assessor of the city a full and complete inventory of the property possessed or controlled by him, her or them, within said limits, not exempt from taxation, on the first day of March of the current year, verified as required by ordinance, and any person failing or refusing to comply with the provisions of this section, shall be liable to fine and imprisonment, and the City Council shall, by ordinance, clearly define the duties of taxpayers herein, and make all necessary rules and regulations to secure the rendition of property and the collection of taxes due thereon.

ARTICLE IV—BOARD OF APPRAISEMENT.

Sec. 91. That it shall be the duty of the City Council, annually, at such times as they may determine, to appoint three Commissioners, each being a qualified voter and the owner of real estate in said city to the value of three thousand dollars, who shall be styled the Board of Appraisement, and whenever the party rendering property for assessment and the Assessor can not agree on the valuation of such property, it shall be referred to said Board, and their action in appraising the same shall be final; provided, that at the meeting of said Board the owner of the property shall be heard, and due notice of the meeting and session of said Board shall be given by publication for ten days. Said Board shall also appraise all property assessed as unknown or unrendered. The City Council shall allow said Board such compensation for their services as they may think just and reasonable. No person connected with the city government shall be appointed on said Board, and any vacancy shall be filled by the Council.

ARTICLE V.

Sec. 92. It shall be the duty of the Assessor to make out a list of all property, both real and personal, which has not been given in for assessment, according to the provisions of this act, and ordinances made in pursuance thereof, and assess the same in the name of the owner, if he be known, and if not, then it shall be assessed by description of the property and last known owner, and the value of such property shall be determined by the Board of Appraisement, and the same may be sold as in other cases, if the tax be not paid in the time prescribed by law.

ARTICLE VI.

Sec. 93. It shall be the duty of the Assessor, at the expiration of the time fixed by ordinance for the rendition of property, to ascertain what property in the city, subject to taxation, shall be by him presented to the Board of Appraisement for valuation by said officer and board,

and then shall by him be entered in a supplement to the assessment roll as unknown, specifying the year for which said tax is not paid within the time prescribed by law; said property shall be sold at the same time, and with like effect as other property.

ARTICLE VII.

Sec. 94. Whenever the Assessor shall ascertain that any taxable inhabitant, or any real or personal property has not been assessed for any former year, he shall assess the same in his next assessment roll (in a supplement thereto), at the same rate under which such inhabitant or property should have been assessed for such year, stating the year which such inhabitant or property should have been assessed, and the taxes thereon shall be collected in the same manner as other assessments. In all cases where any party has omitted to render property for taxation any former year or years, and such taxes have not been paid, such party shall give such property in for assessment for the years thus omitted, and pay such taxes, and the Assessor shall enter all such property in a supplement to his next roll, under the head of payments for former years.

ARTICLE VIII—COLLECTOR.

Sec. 95. The Collector, after the completion of the assessment roll, as required by ordinance, shall proceed to collect the taxes therein mentioned within the time, and give such notice as may be prescribed by the City Council, and for that purpose shall call upon every person taxed, or on the agent or attorney of such person, at the usual place of his or her residence, office or place of business, and demand the payment of the taxes charged upon his or her person or property, if the person is to be found; and if not, then a written demand, specifying the amount of taxes due, left at the residence with some member of the family over fourteen years of age, shall be a sufficient demand; provided, that if any person thus owing taxes has no residence, office or place of business, and no agent in the city, or known to the Collector, then the said demand shall not be necessary, and the ordinary published notice, required by ordinance, shall be sufficient.

ARTICLE IX—TAX SALES.

Sec. 96. That if any person shall fail, neglect or refuse to pay the taxes imposed upon him and his property, within the time prescribed by the ordinances of said city, the Collector shall, by virtue of his tax list and assessment roll, levy upon so much property, liable to taxation, belonging to such person, as may be sufficient to pay his, her or their taxes, and the Collector shall give notice of the time and place of sale by advertisement in writing (if not unknown property), the property and amount of taxes, costs and fees due thereupon. Five of such notices shall be posted: one at the Mayor's office, one at the office of the Collector, and three at different public places within said city limits; and at the expiration of such notice, and on the day therein specified, the Collector shall proceed to sell such property at public auction, in front of the courthouse door of the city of Galveston, or such building as may be used for such purpose; provided, that when real estate or property is offered for sale, the smallest portion of ground (to be taken from the east side of the premises) shall be sold, for which any person will take the same, and pay the taxes, costs and fees.

ARTICLE X—TAX SALES.

Sec. 97. The Collector shall, when any property has been sold for the payment of taxes, make, execute and deliver a deed for said property to the person or persons purchasing the same, and such deed shall be prima facie evidence in all controversies and suits in relation to the right of the purchaser, his, her or their heirs and assigns, to the premises thereby conveyed, of the following facts:

First—That the land or lot, or portions thereof, conveyed, was subject to taxation or assessment at the time the same was advertised for sale, and had been listed or assessed in the time or manner required by law.

Second—That the taxes or assessment were not paid at any time before the same.

Third—That the land, lot, or portion thereof, conveyed, had not been redeemed from the sale at the date of the deed, and shall be conclusive evidence of the following facts:

1. That the land, lot, or portion thereof, sold, was advertised for sale in the manner and for the length of time required by law.

2. That the property was sold for taxes or assessments, as stated in the deed.

3. That the grantee in the deed was the purchaser.

4. That the sale was conducted in the manner prescribed by law; and in all controversies and suits involving the title to land claimed and held under and by virtue of such deed, the person or persons claiming title adverse to the title conveyed by such deed shall be required to prove in order to defeat the said title, either that the land was not subject to taxation at the date of the sale; that the taxes or assessment had been paid; that the land had never been listed and assessed for taxation and assessment, as required by this act, or some ordinance of the city, of that the same had been redeemed according to the provisions of this act, and that such redemption was made for the use and benefit of the persons having the right of redemption under the law; but no person shall be permitted to question the title acquired to the said deed, without first showing that he, she or they, or the person under whom he, she or they claim title, had title to the land at the time of the sale, or that the title was obtained after the sale, and that all taxes due upon the lands have been paid by such person or the person under whom he claims title, as aforesaid; provided, however, that the owner of such property shall have the right to redeem the same at any time within two years of the day and date of the sale thereof, upon paying to the purchaser double the amount of taxes for which the same was sold, together with the costs of such sale, and double the amount of all taxes paid by the purchaser since such sale. The Collector shall have full power to levy upon any personal property to satisfy any tax imposed by this act. All taxes shall be a lien upon the property upon which they are assessed. And in case any property levied upon is about to be removed out of the city, the Collector shall proceed to take into his possession so much thereof as will pay the taxes assessed and costs of collection.

ARTICLE XI.

Sec. 98. If from any cause the sale of property levied upon or seized for taxes, shall not take place at the time first appointed, the Collector shall appoint some other time, give the like notice and proceed to sell such property in the manner prescribed in the first in-

stance, and in case said property levied upon or seized for taxes, can not be sold on the day advertised, such sale may be postponed from day to day until completed, of which postponement the Collector shall give verbal notice at the expiration of sale each day.

ARTICLE XII.

Sec. 99. If at any sale of real or personal property or estate, for taxes, no bid shall be made for any parcel of land, or any goods and chattels, the same shall be struck off to the city, and thereupon the city shall receive, in the corporate name, a deed for said property, and shall be vested with the same rights as other purchasers at such sales and shall have power to sell and convey the same.

ARTICLE XIII.

Sec. 100. If the real estate of any infant, feme covert, or lunatic, be sold under this act, the same may be redeemed at any time within one year after such disability be removed.

ARTICLE XIV.

Sec. 101. That the foregoing provisions under the head of Title V, relating to notices, assessments and collection of taxes on personal property, and all other provisions thereof, not inconsistent with this section, shall also apply to real estate.

TITLE VII.

ARTICLE I—FIRE DEPARTMENT.

Sec. 102. The City Council, for the purpose of guarding against the calamities of fire, may prohibit the erection, building, placing, moving or repairing of wooden buildings within such limits within said city, as they may designate and prescribe; and may also, within said limits, prohibit the moving or putting up of any wooden buildings from without said limits; and may also prohibit the removal of any wooden building from one place to another within said limits, and may direct, require and prescribe that all buildings within the limits so designated and prescribed as aforesaid, shall be made or constructed of fireproof materials; and to prohibit the re-building or repairing of wooden buildings within the fire limits, when the same shall have been damaged to the extent of thirty-three and one-third per cent. of the value thereof, and may prescribe the manner of ascertaining such damage, may declare all dilapidated buildings to be nuisances, and direct the same to be repaired, removed or abated in such a manner as they shall prescribe and direct; to declare all wooden buildings in the fire limits, which they deem dangerous to contiguous buildings, or in causing or promoting fires, to be nuisances, and require and cause the same to be removed in such manner as they shall prescribe.

ARTICLE II.

Sec. 103. The City Council shall have power to prevent and prohibit the dangerous condition of chimneys, flues, fire-places, stove-pipes, ovens, or any other apparatus used in or about any building or manufactory, and to cause the same to be removed, or placed in a secure and safe condition, when considered dangerous.

Sec. 104. To prevent the deposit of ashes in places where they would

be liable to produce fire, or in any wooden box or barrel, or within any wooden building; and to appoint one or more officers to enter into all buildings and enclosures, to examine and discover whether the same are in a dangerous state, and to cause such as may be dangerous to be put in a safe condition.

Sec. 105. To require the inhabitants to keep and provide as many fire-buckets and ladders, or other means to reach the roof, as they shall prescribe, and to regulate the use thereof in times of fire.

Sec. 106. To regulate and prevent the carrying on of manufactories and works dangerous in promoting or causing fires; regulate the building and erection of cotton presses and sheds.

Sec. 107. To regulate, prevent and prohibit the use of fire-works and fire-arms.

Sec. 108. To direct, control and prohibit the keeping and management of houses, or any building for the storing of gun-powder and other combustible, explosive or dangerous materials, within the city; to regulate the keeping and conveying of the same, and the use of candles and other lights in stables and other like houses.

Sec. 109. To regulate and prescribe the manner, and to order the building of parapet and parti-walls, and partition fences.

Sec. 110. To compel the owners or occupants of houses or other buildings to have scuttles in the roofs, and stairs or ladders leading to the same.

Sec. 111. To authorize the Mayor, Fire Wardens, officers of fire companies, or any officer of said city, to keep away from the vicinity of any fire all idle, disorderly and suspicious persons, and arrest and imprison the same, and compel all officers of the city, and all other persons, to aid in the extinguishment of fires, and in the preservation of property exposed to danger thereat, and in preventing goods from being stolen.

Sec. 112. And generally to establish such regulations for the prevention and extinguishment of fires, as the City Council may deem expedient.

ARTICLE III.

Sec. 113. The City Council shall procure fire engines and other apparatus for the extinguishment of fires, and have control thereof, and provide engine houses for keeping and preserving the same; and shall have power to organize fire, hook and ladder, hose and axe companies, and a fire brigade; and the companies so organized, with such assistant engineers as may be provided for, and the chief engineer, shall constitute the Fire Department of the city. Each company shall have the right to elect its own members and officers, said officers to be subject to approval by the Board of Aldermen. The engineers shall be chosen in such manner as said department may determine, subject to the approval of the City Council, who shall define the duties of said officers, and pass such ordinances as they may deem proper for the interest and welfare of said department, and to contribute to the efficiency thereof. All officers so elected and approved shall be commissioned by the Mayor; and the said companies, officers and members, shall observe and be governed by the ordinances of said city relating to said Fire Department. Said companies shall have power to adopt their own constitution and by-laws, not inconsistent with the provisions of this act and the ordinances of said city, and said department shall take the care and manage-

ment of the engines, and other implements and apparatus, provided and used for the extinguishment of fires; and their powers and duties shall be prescribed and defined by the City Council; provided, that nothing herein contained shall prevent the Board of Aldermen from disbanding any or all of the fire, hook and ladder, hose and axe companies, and substituting therefor, either in whole or in part, a Fire Department of which the officers and men shall be appointed by the City Council and be paid by the city.

ARTICLE IV.

Sec. 114. When any building in the city is on fire, it shall be lawful for the Chief or Acting Chief Engineer, with the concurrence of the Mayor, to direct such building, or any other buildings, which they may deem hazardous and likely to take fire, and communicate to other buildings, to be torn down, or blown up, or destroyed, and no action shall be maintained against any person or against the city therefor; but any person interested in any such building so destroyed or injured, may, within three months, and not thereafter, apply, in writing, to the City Council to assess and pay the damages he has sustained; and if the City Council and the claimant can not agree on the terms of adjustment, then the application of such claimant shall be referred to three commissioners—one to be appointed by the claimant, one by the City Council, and the third by both. They shall be sworn faithfully to execute their duty according to the best of their ability; shall have power to subpoena and swear witnesses, and shall give all parties a fair and impartial hearing, and give notice of time and place of meeting. Said commissioners shall be qualified voters and owners of real estate in the city; shall take into account the probabilities whether the said building would have been destroyed or injured by fire, if it had not been so pulled down or destroyed, and shall report the amount of damage to be allowed, or may report that no damages should equitably be allowed to such claimant. Whenever a report shall be made, and finally confirmed for appraising said damages, a compliance with the terms thereof by the City Council shall be deemed a full satisfaction of said damages.

ARTICLE V—FIREMEN.

Sec. 115. Every person actively serving as a fireman, or who shall have so served as a fireman in the city for a continuous term of seven years, shall be exempt from all militia duty, except in cases of insurrection or invasion. A certificate of the Mayor, under the city seal, shall be evidence of such exemption. The Engineer and Assistant Engineers, and members of hook and ladder, hose and axe companies, fire brigade and Fire Wardens, shall be deemed firemen of this city within the meaning of this section.

ARTICLE VI—FIRE ORDINANCES.

Sec. 116. All fines or penalties imposed and collected for a violation of the laws and ordinances of the city for preventing and extinguishing fires, shall be paid to the Treasurer of the Firemen's Relief Association, for the use and benefit of said association.

TITLE VIII.

ARTICLE I—SANITARY REGULATIONS.

Sec. 117. There shall be created a Board of Health, which shall con-

sist of six citizens, one from each two contiguous wards, extending from Bay to Gulf, and three practicing physicians from the city at large, all of whom shall be taxable inhabitants of the city. Five members of the Board, at least two of whom shall be physicians, shall constitute a quorum. They shall be appointed by the Mayor, with the approval of a majority of the City Council, at their first annual meeting, or as soon thereafter as practicable, at a regular meeting; one physician and two citizens shall be appointed for three years, one physician and two citizens for two years, and one physician and two citizens for one year; and annually thereafter, the Mayor, with like approval, shall appoint one physician and two citizens, to be members of said Board for the term of three years; and all vacancies shall be filled in like manner for unexpired terms; and they shall be subject to suspension or removal as in cases of other officers of the city.

ARTICLE II.

Sec. 118. The Board of Health shall have general supervision over the public health of the city; and for that purpose they are authorized and empowered to make such rules and regulations, not in conflict with the ordinances of the city or laws of this State, as they may deem best to promote and preserve the health of the city; to enforce the observance of its rules and regulations, and the laws and ordinances of the city in relation thereto; to appoint such officers and employes as may be necessary for the execution of its orders, and to define their duties, as the City Council may by ordinance permit, and to be provided for hereafter by ordinance; to enter into, or authorize and require any employe to enter into and examine, in the day time, all buildings, lots and places of every description within the city, and to ascertain and report to it the condition thereof, so far as the public health may be affected thereby. The Board of Health shall have power to determine, regulate and order, as to the materials, plans and mode of construction, alteration, repair, location, removal or filling of all sinks, dry earth closets, and other descriptions of privies within the fire limits, as at present or as hereafter fixed, and within such other quarters of the city as may hereafter be determined by ordinance; and to determine, regulate and order, in all quarters of the city, the plan and manner of filling, cleansing and disinfecting the same; to declare and abate nuisances prejudicial to the public health, in such manner as may be provided by ordinance; and to adopt such measures and issue such orders for the cleansing or purifying of any place or places, or abatement or removal of any nuisance as they may deem proper or necessary; to provide for and enforce the registration of all marriages, births and deaths occurring within the city; to have charge of all city hospitals, and to make all necessary rules for the government of the same. The Board of Health shall have power to take such measures as they may deem effectual to prevent the entrance of any pestilential, contagious or infectious diseases into the city; to stop, detain and examine, for that purpose, any person or persons coming from any place infected or believed to be infected with such disease; to establish, maintain and regulate pest-houses or hospitals for such diseases, at some place within the city, or not exceeding five miles beyond its bounds; at their discretion to cause any person infected with any such disease to be sent to such pest-house or hospital; to remove from the city, or cause to be destroyed, any furniture, wearing apparel, or property of any kind, which shall be sus-

pected of being tainted or infected with pestilence, or which shall be likely to pass into such a state as to generate or propagate disease.

ARTICLE III.

Sec. 119. The captain, master or person in charge of any boat, steamboat, steamship, or other craft or vessel, which shall enter the city knowingly having on board thereof any person sick with malignant fever, or other pestilential, contagious or infectious disease, shall be guilty of a misdemeanor, punishable by fine or imprisonment, or both, unless the person so diseased became so on the way and could not be left. It shall be the duty of such captain, master, or person in charge, within three hours after his arrival, to report, in writing, to the Quarantine Physician (and when no quarantine exists, then to the Health Physician) the fact of such sick person being on board, and the name, description and location of his craft; and he shall not permit any such sick person to land or be landed, or to communicate with the shore in any way, until the Quarantine Physician (and when no quarantine exists, the Health Physician) shall have given written permission for that purpose; and any neglect or violation of these provisions, or any or either of them, shall be a misdemeanor punishable with fine and imprisonment, or either. The owner, driver, conductor, or person in charge of any stage, railroad car, or public conveyance, which shall enter the city knowingly having on board any person sick of a malignant fever, or pestilential, contagious or infectious disease, unless such person became sick on the way, and could not be left, shall be deemed guilty of a misdemeanor, punishable with fine and imprisonment, or either. Such owner, driver, conductor or person in charge, shall, within three hours after the arrival of such sick person, report in writing the facts, with the name of such person, and the locality or house where he was put down in the city, to the Health Physician, and every neglect to comply with these provisions shall be a misdemeanor, punishable by fine and imprisonment, or either. Any person who shall knowingly bring, or cause to be brought into the city, any person or property of any kind tainted or infected with malignant fever, or pestilential or infectious disease, shall be guilty of a misdemeanor, and punishable by fine and imprisonment, or either.

ARTICLE IV.

Sec. 120. The Quarantine Physician (and when no quarantine exists, the Health Physician) shall have power, by an order in writing for that purpose, to be served on the master, captain or person in charge of any boat, steamboat, steamship or other ship, vessel or craft, that may be suspected to have on board any infected or diseased property or person, to require such boat, steamboat, steamship, vessel or other craft, not to enter within the city limits or harbor, or to remove to some certain distance, not less than two miles from the city; and every such master, captain or person in charge, consignee or owner, who shall be served with such order shall be guilty of a misdemeanor, punishable with fine and imprisonment, or either, if such boat, steamboat, steamship, vessel, or other craft, shall enter the harbor or city, in violation of such order, or shall not be removed according to the tenor of such order, within a reasonable time after the service of such notice. Every keeper of an inn, hotel, tavern, boarding or lodging house in the city, who shall have in his house, at any time between the first day of June and the first day of December, any sick guest, traveler, sailor, or other

person, shall report the fact and the name of the person, in writing within six hours after he came to the house, or was taken sick therein, to the Health Physician. Every physician in the city shall report, under his hand, to the officer above named, the name, residence, or whereabouts and disease of every person whom he shall have sick of any malignant or infectious or pestilential disease, within twenty-four hours after he shall have visited such patient, and determined or suspected the presence of such disease. A violation of either of the provisions of this section, or any part of either of them, shall be a misdemeanor, punishable by fine or imprisonment, or either; provided, that no fine under the articles of this section shall in any case be less than ten dollars, nor more than five hundred dollars; nor shall imprisonment be for a less period than five days, or more than three months.

ARTICLE V.

Sec. 121. The Board of Health shall appoint a Health Physician for the city, who shall also be ex-officio Secretary of the Board, whose general duties shall be defined by the Board; also, such necessary medical staff for the city hospitals as the City Council may, by ordinance, permit; a physician for the quarantine; and select all other subordinate officers for the city hospitals and quarantine as shall be provided for by ordinance; their salaries to be fixed in all cases by the City Council.

ARTICLE VI.

Sec. 122. In order to effect the abatement of nuisances or removal of accumulated filth, the Board of Health shall have power, whenever in their opinion such nuisance or filth exists, and is or is likely to become detrimental to the public health, after officially so declared by them, to notify, in writing, through its officers, the owner, agent, lessee or tenant thereof, to abate or remove the same, either by filling up, draining, cleansing, purifying or removing the same, as the case may be. If the owner, who shall have been served with such notice, shall fail, within the time indicated in the notice, to comply with such order of the Board, or fail to show good cause to said Board why he cannot or ought not to comply with such order, for which purpose he shall be entitled to be heard before said Board, if he so request it, he shall be deemed guilty of a misdemeanor, and on conviction shall be fined not less than ten dollars nor more than two hundred dollars, with an additional fine of not less than five nor more than fifty dollars imposed for each and every day that the person or persons thus convicted shall, after conviction and due notice thereof, fail or refuse to abate, or use due diligence in the work of abating such nuisance; and if such service cannot be made for the reason that the owner, agent, lessee or tenant of the property upon which the nuisance may exist, cannot be found in the city, of which fact the return upon such notice of the officer serving the same shall be conclusive evidence, then the Board shall cause such notice to be published in the newspaper doing the city printing for five consecutive days (Sundays excepted), and if within five days after such service of such notice, or after its publication as aforesaid, such nuisance shall not be abated, or the order observed by the owner, then the Board of Health may order the same to be done; the said work to be executed under the supervision of the Street Superintendent, or such other person charged with the like city work, and as hereinafter directed, and the cost and manner of execution of the same, when fully completed, to be ascertained and de-

terminated by the City Engineer, under the direction of the Board of Health, and the amount thereof shall be assessed as a special tax against the property so improved, or upon which such work has been done, in the name of the owner thereof, and the collection of said amount shall be enforced in accordance with the ordinances of the city; and on filing with the County Clerk of Galveston county a statement by the Mayor, of such expense, shall have a first privileged lien on said property, to secure said expenditure, and twelve per cent. interest thereon. For any such expenditure and interest as aforesaid, suit may be instituted and recovery had in the name of the corporation, in any Court having jurisdiction; and the statement so made as aforesaid, or a certified copy thereof, shall be full proof and satisfactory evidence of the amount expended in any such improvement.

ARTICLE VII.

Sec. 123. Whenever it shall come to the knowledge of the Board of Health that any malignant, infectious or contagious disease or epidemic is prevalent in the city, or will probably become so, the President of the Board having made public announcement of such fact, after such public announcement the Board of Health shall have power, by order, to take all steps and use all measures necessary to avoid, suppress or mitigate such disease, and to provide for such emergency they may employ such officers, agents, servants and assistants as the Council may, by resolution or ordinance, permit; establish temporary hospitals, provide the necessary furniture, medical attendance and nurses, as in the opinion of the said Board may be necessary and advisable, and permitted by ordinance or resolution of the City Council. The Board shall have and exercise such extraordinary powers until the epidemic or disease, in view of which the said public announcement was made, is no longer imminent or prevalent, whereupon the said powers shall cease.

ARTICLE VIII.

Sec. 124. Said Board shall keep a record of their proceedings; shall file all petitions, documents and papers belonging to their office, and shall keep a correct account in full of all their receipts and expenditures, and shall make rules and regulations for the government of the Board and the transaction of its business. Copies of such records, documents, rules and regulations, when authenticated by its Secretary, shall be presumptive evidence in any court of justice of the facts therein contained, provided such rules and regulations are not inconsistent with the charter or ordinances. The archives and all papers pertaining to the sanitary department shall at all times be open to inspection of the Mayor or a committee of the City Council, and monthly or quarterly reports of all the operations, receipts and expenditures shall be made by the Board of Health to the Council.

ARTICLE IX.

Sec. 125. The powers, authority and jurisdiction of the Board of Health shall be, and the same are hereby extended over and throughout the district of country outside the city of Galveston to the extent of five miles from its corporate limits, in any direction from said corporate limits. When the annual appropriation of funds for the current expenses of the city is made by the City Council, as hereinbefore provided in this act, such an amount as may be necessary for sanitary pur-

poses, together with such fines and penalties as may accrue under the provisions of this title, shall be set aside as a special fund, to be known as the Sanitary Fund, in the hands of the City Treasurer, and shall only be subject to be drawn out on requisition of the Board of Health for sanitary purposes; provided, that all claims and accounts of the said Board of Health shall be duly audited in same manner as other claims and accounts against the city.

TITLE VIII.

ARTICLE I—PUBLIC LIBRARY.

Sec. 126. The City Council shall have authority to maintain a free public library.

TITLE IX.

ARTICLE I—STREETS AND ALLEYS.

Sec. 127. The City Council shall be invested with full power and authority, upon the consent of the resident owners of a majority of the frontage or property on the streets to be improved, to grade, shell, repair, pave or otherwise improve any avenue, street or alley, or any portion thereof, within the limits of said city, whenever, by a vote of two-thirds of the Aldermen elected, they may deem such improvement for the public interest; provided, the City Council pay one-third and the owners of the property two-thirds thereof, except the intersections of the streets, from lot to lot, across the streets either way, shall be paid for by the city alone, and said cost shall be assessed on the property fronting on said thoroughfares, to be collected in equal annual payments, not less than five in number; and all moneys collected from these assessments shall be appropriated exclusively to the payment of the bonded debt of the city.

ARTICLE II.

Sec. 128. That whenever the City Council shall determine to make any such improvement, they shall cause an estimate to be made of the probable cost thereof by the City Engineer, or by some other officer of the city, or by a committee of Aldermen; and such officer or committee shall also report a full list of all lots, or fractional lots, giving number and size of the same, and the number of the block in which situated, and the names of the owners thereof, if known, and such other information as may be required by City Council; and if there be any lot or fractional lot, the owner of which is not known, the same shall be entered on said list as unknown. It shall be the duty of the officer or committee aforesaid, to enter on said list, opposite each lot or fractional lot, lying and being on each side of the street, avenue or alley, so to be improved as aforesaid, one-third of the estimated expense for such work or improvement on such avenue, street or alley, fronting, adjoining or opposite such lot or fractional lot, and on the acceptance and approval of said report and list by the City Council, and said amounts shall be imposed, levied and assessed by the City Council, and collected by the Collector, and shall be a lien upon the property until the payment of the same.

ARTICLE III.

Sec. 129. That after such action on the part of the City Council, as above provided for, the Collector shall give notice, as may be required

by ordinance, of said assessment being due, and within what time payable, and shall commence forthwith to collect the same. That after the expiration of the period for payment of said assessment, said officer shall levy on so much of any property on said list on which said assessment has not been paid, as will be sufficient to pay the same; and the same notice of sale as is required in sales for taxes shall be given. And if said assessment is not paid before the day of sale, said officer shall sell said property in the manner and under the circumstances, and to the extent, and subject to the same conditions, which are or may be provided by ordinance for the sale of real estate in the city of Galveston, charged with the payment of taxes imposed by said corporation; and said officer shall execute a deed to the purchaser at any such sale, and the provisions of this act in reference to a deed drawn by the Collector for taxes, shall apply to the deed provided for in this section.

ARTICLE IV—STREET ASSESSMENTS.

Sec. 130. That in addition to the power and authority granted to the City Council to collect said assessments as aforesaid, they shall have the further and additional remedy of instituting suit, in the corporate name, in any court having jurisdiction, for the recovery, against any owner of said property, for the amount due for any such work, so made as aforesaid; and the City Council shall provide, by resolution or ordinance, under the provisions of this act, for the carrying out and executing the powers in this title conferred, and may adopt such resolutions, and enact such ordinances, and make such rules and regulations as they may deem necessary.

TITLE X.

ARTICLE I—PROVISIONS FOR ISSUANCE OF BONDS, ETC.

Sec. 131. The said city shall have power to issue, from time to time as the City Council shall determine, bonds to the extent of eleven hundred and fifty thousand dollars, (\$1,150,000) of the denominations of one hundred dollars and multiples thereof, payable thirty years after date of their issue, bearing interest, not to exceed eight per cent. per annum, payable semi-annually; but such bonds shall be used only in paying or redeeming legal and valid outstanding bonds, past due, falling due, or presented for exchange in discharging the legal and valid indebtedness of the city now existing, for which bonds shall not have been heretofore issued, and in discharging legal and valid indebtedness created under this act; provided, that the bonds herein authorized shall not be issued at less than par for any of the above purposes.

ARTICLE II.

Sec. 132. That exclusive of such debt as may be authorized by act of the Legislature for the construction of a sea-wall or break-water, and which shall be provided for by a special tax, the indebtedness of said city for all purposes, general as well as special, for five years after the passage of this act, shall not exceed twelve hundred thousand dollars, (\$1,200,000); nor shall such indebtedness ever thereafter exceed the amount of five per cent. of the value of the taxable property of the city, as shown by the regular assessment thereof for the purpose of taxation; and it shall be the duty of the City Clerk, quarterly, to make to

the City Council, for their information and guidance, a full, accurate and correct statement and report of the whole indebtedness of the city, which shall be also published for three days in the official journal of the city. Any member of the City Council who shall knowingly vote for, or in any manner aid or promote the passage or adoption of any ordinance, resolution, or other act of the City Council, increasing the indebtedness of the city beyond the limits herein prescribed, shall thereby vacate his office, and shall be deemed guilty of malfeasance in office, and being thereof convicted shall be punished in the manner and to the extent provided in Section 30 of this act.

TITLE XI.

ARTICLE I—CITY COUNCIL.

Sec. 133. Whenever, in the opinion of the City Council, any building, fence, shed, awning, or any erection of any kind, or any part thereof, is liable to fall down and endanger persons or property, they may order any owner or agent of the same, or any owner or agent of the premises on which such building, shed, awning or other erection stands, or to which it is attached, to take down and remove the same, or any part thereof, within such time as they may direct; and to punish, by fine and imprisonment, or either, any neglect, failure or refusal to comply therewith. The City Council shall, in addition, have the power to remove the same, at the expense of the city, on account of the owner of the property or premises, and assess the expense on the land on which it stood, or to which it was attached, and shall, by ordinance, provide for such assessment, the mode and manner of giving notice, and the means of recovering any such expense.

ARTICLE II—PEACE BOND, ETC.

Sec. 134. Whenever any person has been required by the Recorder to give a peace bond, or a bond for good behavior, or any similar bond under this act, and has complied with such order, and been guilty of a violation or infraction of such bond, and the same is proved or established to the satisfaction of that officer, in any trial or complaint, such party, so offending, may be fined in a sum not exceeding five hundred dollars, and imprisoned not exceeding six months, and the city in its corporate name may sue in any court having jurisdiction for the recovery of the penalty of such bond.

ARTICLE III.

Sec. 135. The territory contained within the boundary of the city of Galveston shall be divided into twelve wards, as follows:

The First Ward shall contain all the territory lying north of Avenue G and east of Thirteenth street.

The Second Ward shall contain all the territory lying north of Avenue G, and between Thirteenth and Seventeenth streets.

The Third Ward shall contain all the territory lying north of Broadway, between Seventeenth and Twenty-first streets.

The Fourth Ward shall contain all the territory lying north of Broadway, between Twenty-first and Twenty-fifth streets.

The Fifth Ward shall contain all the territory lying north of Broadway, between Twenty-fifth and Twenty-ninth streets.

The Sixth Ward shall contain all the territory lying north of Broadway, between Twenty-ninth street and the western boundary of the city.

The Seventh Ward shall contain all the territory lying south of Broadway, between Twenty-ninth street and the western boundary of the city.

The Eighth Ward shall contain all the territory lying south of Broadway, between Twenty-fifth and Twenty-ninth streets.

The Ninth Ward shall contain all the territory lying south of Broadway, between Twenty-first and Twenty-fifth streets.

The Tenth Ward shall contain all the territory lying south of Broadway, between Seventeenth and Twenty-first streets.

The Eleventh Ward shall contain all the territory lying south of Avenue G, between Thirteenth and Seventeenth streets.

The Twelfth Ward shall contain all the territory lying south of Avenue G, and east of Thirteenth street; provided, that the City Council of said city shall have power from time to time to cause a division of said city, to be made into as many wards (not less than twelve) as they may deem necessary and for the good of the inhabitants of said city; but no such division shall be made, unless it be done at least three months preceding the city election next ensuing; and said wards so established shall contain, as far as practicable, an equal number of voters; provided, that if any vacancy shall occur in the Board of Aldermen previous to the first Monday in March, 1877, said vacancy shall be filled from the ward where said vacancy occurs and as is now provided by law.

ARTICLE IV.

Sec. 136. In case of the temporary absence, sickness or inability of the Recorder to act, or in case of vacancy in that office, the Mayor shall have full power and authority to act as Recorder until said officer can resume his duties, or the vacancy be filled by election of the City Council. The Mayor, while so acting, shall perform all the duties, and have, possess and exercise all the powers and authority vested in the Recorder by this act, or any ordinance passed in pursuance thereof.

ARTICLE V—LICENSES.

Sec. 137. In all cases where by any provisions of this act, or by any ordinance passed in pursuance thereof, a person is required to obtain a license for any calling, occupation, business or avocation, and has, on complaint before the Recorder, been adjudged guilty of violating any ordinance of the City Council in relation thereto, the Recorder, in addition to fine and imprisonment, or either, may suspend or revoke the license so granted.

ARTICLE VI—PRINTING.

Sec. 138. The City Council shall, as soon as may be after the commencement of each municipal year, contract, as they may by ordinance or resolution determine, with a public newspaper of the city as the official paper thereof, and to continue as such until another is selected, and shall cause to be published therein all ordinances, notices and other matters required by this act, or by the ordinances of the city, to be published.

ARTICLE VII.

Sec. 139. The municipal year of the city of Galveston shall commence on the first day March in each year.

ARTICLE VIII—FINANCIAL STATEMENT.

Sec. 140. The City Council shall, at least ten days before the annual election in each year, cause to be published in a city newspaper a correct and full statement of the receipts and expenditures from the date of the last annual report, together with the sources from whence the funds are derived, and showing for what purpose disbursed, the condition of the Treasury, together with such information as may be necessary to a full understanding of the financial condition of the city.

ARTICLE IX—ORDINANCES.

Sec. 141. Every ordinance imposing any penalty, fine, imprisonment or forfeiture, for a violation of its provisions, shall, after the passage thereof, be published in every issue of the official paper, for ten days, and proof of such publication by the printer or publisher of such newspaper, taken before any officer authorized to administer oaths, and filed with the Clerk, or any other competent proof of such publication, shall be conclusive evidence of the legal publication and promulgation of such ordinances, in all courts. Ordinances passed by the City Council and requiring publication, shall be enforced from and after the publication thereof for ten days, unless it be therein otherwise expressly provided. Ordinances passed by the City Council, and not requiring publication, shall take effect and be in force from and after their passage, unless it shall be therein otherwise expressly provided.

ARTICLE X.

Sec. 142. There shall be a digest of the ordinances of the city, which are of a general nature, published within six months, or as soon as practicable thereafter, from the first Monday in March, 1877, and a like digest within every period of five years thereafter; provided, it shall be the duty of each City Council to cause to be printed, in pamphlet form, at the end of each municipal year, all the ordinances passed for the preceding year.

ARTICLE XI.

Sec. 143. All ordinances of the city, when printed and published by authority of the City Council, shall be admitted and received in all courts and places without further proof.

ARTICLE XII.

Sec. 144. The style of all ordinances shall be, "Be it ordained by the City Council of the city of Galveston;" but it may be omitted when published in the form of a book or pamphlet.

ARTICLE XIII.

Sec. 145. All ordinances, regulations or resolutions now in force in the city of Galveston, and not in conflict with this act, shall remain in force under this act until altered, modified or repealed by the City Council.

ARTICLE XIV—FINES AND PENALTIES.

Sec. 146. All fines, forfeitures and penalties for the breach or violation of this act, or of any regulation, order or ordinance of the City Council shall, when collected, be paid into the City Treasury, for the use and benefit of said city, except such fines as are herein appropriated to the Firemen's Relief Association.

ARTICLE XV—OFFICE.

Sec. 147. No person other than an elector, resident of the city, shall be elected or appointed to any office by the City Council, or under the city government.

ARTICLE XVI—OFFICERS.

Sec. 148. Resignation by any officer, authorized to be elected or appointed by this act, shall be made to the City Council, in writing, subject to their approval and acceptance; provided, that nothing in this section contained shall apply to appointments by the Mayor. Any such appointee wishing to resign, shall present his resignation to that officer in writing for his action.

ARTICLE XVII.

Sec. 149. That the Mayor and Aldermen of the city of Galveston may be tried in the manner hereinafter provided, and removed from office for malfeasance, nonfeasance or misfeasance in office, or for a willful violation of any of the ordinances of said city; for habitual drunkenness, incompetency, or for such other causes as may be prescribed by the ordinances.

Sec. 150. That whenever charges are preferred and filed with the Mayor, by any person against either of the Aldermen, it shall be the duty of the Mayor to have the accused duly served with a copy of such charges, and shall set a day to inquire into the truth of such charges, and shall notify the accused and the other Aldermen and the witnesses for and against the accused to be present; that the Mayor and said other Aldermen shall constitute a court to try and determine the case, and may continue the investigation from day to day, upon proper showing, to enable the accused or prosecutor to get material evidence before the court.

Sec. 151. That when charges are so preferred against the Mayor, they may be filed with either of the Aldermen, whose duty it shall be to call the Board of Aldermen together, and when so assembled they shall proceed to elect one of their number to preside during said investigation, and for the purposes of said trial; the presiding officer so elected shall perform the duties of Mayor, and the trial shall proceed as provided for in the last preceding section.

Sec. 152. The accused shall have the right to be heard in person or by counsel, and the corporation shall likewise be represented by counsel, if the court desire it.

Sec. 153. Upon the conclusion of the investigation and argument of the case, the vote shall be taken upon each charge and specification, and if two-thirds of the members present vote to sustain either of the charges against the accused, it shall be the duty of the presiding officer to enter up the judgment of the court, in which he shall record the vote of each member of the court upon the several charges and specifications; and shall also include in said judgment an order removing the accused from his office, and declaring the same vacant; but if the vote is otherwise, the accused shall be declared not guilty, and judgment entered accordingly.

Sec. 154. That the officers so removed shall not be eligible to re-election for two years from the date of such removal.

Sec. 155. The City Council shall have power to remove any other officer for incompetency, corruption, malconduct or malfeasance in office, after due notice and an opportunity to be heard in his defense; and in addition to the foregoing power of removal, the City Council

shall have power, at any time, to remove any officer of the corporation elected by them, by resolution declaratory of its want of confidence in said officer; provided, that two-thirds of the Aldermen elected shall vote in favor of said resolution.

ARTICLE XVIII.

Sec. 156. Whenever any person shall be removed from any office, or the term for which he was elected or appointed, has expired, or he has resigned, or ceased to act in such official capacity, he shall deliver over to his successor all books, papers and effects, in any way appertaining to his office. Every person violating this provision, shall be guilty of a misdemeanor, and shall be deemed an offender within the meaning of any law of the State punishing such offense; and in addition thereto shall on conviction before the Recorder, be fined in a sum not exceeding five hundred dollars, and imprisonment for any time not exceeding six months, or either; any officer who shall have been entrusted with the collection or custody of funds belonging to said city, who shall be in default to said city, besides being liable to a criminal prosecution and a civil action for debt, shall thereafter be incapable of holding any office under said city until the amount of his defalcation shall have been fully paid to said city, with twelve per cent. interest per annum.

ARTICLE XIX.

Sec. 157. No member of the City Council shall hold any other employment or office under the city government while he is a member of said Council, unless herein otherwise provided; and no member of the City Council, or any officer of the corporation, shall be directly or indirectly interested in any work, business or contract, the expense, price or consideration of which is paid from the City Treasury, or by an assessment, levied by an ordinance or resolution of the City Council, nor be the surety of any person having a contract, work or business with said city, for the performance of which security may be required. Any Alderman or officer of the city violating the provisions of this section shall forfeit his seat in the Council or office, and shall thereafter be ineligible to a seat in the Board or to hold any office under the city government.

ARTICLE XX—ALDERMEN.

Sec. 158. The members of the City Council shall be exempt from jury service during their terms of office. Each Alderman shall be fined seven dollars for every meeting which he fails to attend, unless on account of his own sickness.

Any member of the City Council remaining absent for three consecutive meetings of the Board, without first having obtained leave of absence at a regular meeting, shall be deemed to have vacated his office; and the Mayor shall cause the vacancy to be filled, in accordance with the charter.

ARTICLE XXI—CITY COUNCIL.

Sec. 159. The City Council shall have power to prescribe the duties of all officers and persons appointed by them, or elected to any office or place whatever, subject to the provisions of this act; to revoke any license given under this act; to remit, in whole or in part, and on such conditions as shall be deemed proper, by a vote of two-thirds of all the Aldermen present, any fine or penalty, belonging to the city, which

may be imposed or incurred, under this act, or under any ordinance or resolution passed in pursuance thereof.

ARTICLE XXII.

Sec. 160. Where, by the provisions of this act, the City Council has power to pass ordinances on any subject, they may prescribe any penalty, not exceeding two hundred dollars, for the violation thereof, and imprisonment not to exceed three months (unless a larger penalty be prescribed therefor by this act); and in the case of the imposition of a fine, and non-payment thereof, they may provide that the party convicted be committed to jail, or house of correction, or required to work, on the alleys, avenues or streets of said city, or on any public work, under the control of the City Council, for such time as the Council may by ordinance provide, not to exceed the term of imprisonment.

ARTICLE XXIII.

Sec. 161. The City Council shall, on or before the first day of January in each and every year, fix the annual salary of the Mayor to be elected at the next regular election, and shall, at the same time, establish the compensation, or salary, to be paid to the officers elected, or appointed by the City Council, and the compensation, or salary, so established, shall not be changed during the term for which said officers shall be elected or appointed.

ARTICLE XXIV—CITY.

Sec. 162. It shall not be necessary in any action, suit or proceeding, in which the city of Galveston shall be a party, for any bond, undertaking or security to be executed in behalf of the city; but all such actions, suits and proceedings shall be conducted in the same manner as if such bond, undertaking or security had been given, and for all the purposes of such actions, suits or proceedings, the city shall be liable, in the same manner, and to the same extent, as if the bond, undertaking, or security, required in ordinary cases, had been duly given and executed.

ARTICLE XXV—CEMETERY.

Sec. 163. The cemetery lots which have been, and may hereafter be laid out and sold by said city, for private places of burial, shall, with the appurtenances, forever be exempt from taxes, execution, attachment or forced sale.

ARTICLE XXVI—SUITS.

Sec. 164. No person shall be deemed to be an incompetent Judge, Justice, witness or juror, by reason of his being an inhabitant or freeholder in the city of Galveston, in any action or proceeding in which said city may be a party of interest.

ARTICLE XXVII—CHARTER.

Sec. 165. All rights, actions, fines, penalties and forfeitures in suits, or otherwise, which have accrued under the laws heretofore in force, shall be vested in and prosecuted by the corporation hereby created, and no suit pending shall be effected by the passage of this act, but the same shall be prosecuted or defended, as the case may be, by the corporation hereby created.

ARTICLE XXVIII—CORPORATION.

Sec. 166. All property, real, personal or mixed, belonging to the city of Galveston, is hereby vested in the corporation created by this act; and the officers of said corporation, now in office, shall continue in the same until superseded, in conformity to the provisions hereof, but shall be governed by this act from and after it takes effect.

ARTICLE XXIX—CHARTER.

Sec. 167. This act shall not invalidate any legal act done by the City Council of Galveston, or by its officers, nor divest their successors, under this act, of any rights of property or otherwise, or liability, which may have accrued to, or been created by said corporation prior to the passage of this act.

ARTICLE XXX.

Sec. 168. That an act entitled, "An Act to incorporate the city of Galveston, and to grant a new charter to said city, and to repeal all acts heretofore passed, incorporating said city, which may be in force by virtue of any existing charter," approved May 16, 1871, and all laws and parts of laws inconsistent with the provisions of this act, be and the same are hereby repealed.

ARTICLE XXXI—CHARTER.

Sec. 169. This act shall be deemed a public act, and may be read in evidence, without proof, and judicial notice shall be taken thereof in all courts and places.

ARTICLE XXXII—OFFICERS.

Sec. 170. That no officer of this city, elected or appointed, shall receive a larger compensation for his services than at a rate of three thousand dollars per annum, and that no officer shall receive fees.

ARTICLE XXXIII.

Sec. 171. No salary not fixed in this charter shall exceed eighteen hundred dollars per annum for any office which the Board of Aldermen or Council are authorized to create.

ARTICLE XXXIV.

Sec. 172. Whereas, an urgent necessity requires it, and a great public emergency exists that the city of Galveston shall have power to provide for the payment of its outstanding indebtedness, and to secure the better government of said city, this act shall take effect from and after its passage.

Approved August 2, 1876.

Takes effect from its passage.

CHAPTER XII.—An Act to amend Sections three, five, six, seven, fourteen, twenty, twenty-three, twenty-four, thirty-one, thirty-two, thirty-three and thirty-four of "An Act to consolidate in one act, and amend the several acts, incorporating the City of Houston, in Harris county," passed January 23, 1874.

Section 1. Be it enacted by the Legislature of the State of Texas, That section three of the above recited act shall hereafter read as follows:

"Sec. 3. That the City Council may divide the city into a convenient

number of wards, not exceeding eight, and define and establish the boundaries thereof, and may change the same from time to time as may be deemed expedient, having regard for the number of inhabitants, so that each ward shall contain, as near as may be, the same number of qualified electors for city elections."

Sec. 2. That section five of the above recited act shall hereafter read as follows:

"Sec. 5. All qualified electors of the State, who shall have resided for six months immediately preceding an election within the limits of said city, shall have the right to vote for Mayor, and all other elective officers of said city; but in all elections to determine the expenditure of money, or assumption of debt, only those shall be qualified to vote who pay taxes on property in said city."

Sec. 3. That section 6 of the above recited act shall hereafter read as follows:

"Sec. 6. That the Mayor shall be elected by the qualified voters of the city, and shall hold his office for the term of two years, and until his successor is elected and qualified. No person shall be Mayor unless he is a qualified elector of the city. He shall be a conservator of the peace throughout the city. He shall have power, by and with the consent of the City Council, to appoint any number of policemen, on any special occasion, that he may deem necessary to preserve the peace of the city, and to discharge the same at pleasure. He shall have power, in case of necessity, to call out the militia, or any military company in the city, to aid in the suppression of any riot or public disturbance. He shall be active and vigilant in enforcing all laws and ordinances for the government of the city; and he shall cause all the subordinate officers to be dealt with promptly for any neglect or violation of duty. He shall preside at all meetings of the City Council, when present; and in case of a tie vote in Board of Aldermen, he shall give the casting vote. He shall have the power to veto any resolution, by-law, or ordinance passed by the Council, and when vetoed, the same shall be inoperative, unless it shall be reconsidered at a subsequent meeting, and passed by the votes of two-thirds of the Aldermen present, taken by yeas and nays, and entered upon the journal of the Council. He shall have power to hold the Recorder's Court, in case of the temporary absence or illness of the Recorder; and it shall be his duty to do so. He shall have power to administer oaths and affirmations. He shall have and exercise such powers and authority as may be conferred by the City Council, not inconsistent with the general purposes and provisions of this charter."

Sec. 4. That section seven of the above recited act shall hereafter read as follows:

"Sec. 7. That each ward in the city shall be represented in the City Council by two Aldermen, elected by the qualified voters of each ward, who shall vote only in their respective wards. No person shall be an Alderman unless he is a qualified elector of the city, and a bona fide resident of the ward for which he is elected. One Alderman shall be elected annually from each ward, who shall hold the office for the term of two years and until his successor is elected and qualified."

Sec. 5. That section fourteen of the above recited act shall hereafter read as follows:

"Sec. 14. That there shall be a City Recorder, Secretary, and Treasurer, City Attorney, City Marshal, Assessor and Collector of Taxes,

Street Commissioner and City Sexton, who shall hold their respective offices for one year, and until their successors are duly qualified. The Secretary and Treasurer and City Attorney shall be nominated by the Mayor and confirmed by a majority of the Board of Aldermen. The City Marshal, Assessor and Collector of Taxes, Street Commissioners, City Sexton and City Recorder shall be elected by the qualified voters of the city.

Sec. 6. That section twenty of the above recited act shall hereafter read as follows:

"Sec. 20. That the officers named in this charter shall perform the duties prescribed by this act and such duties as may be prescribed by ordinance; and there shall be such other officers, servants and agents of the corporation, as may be provided by ordinance, to be appointed by the Mayor, with the approval of a majority of the Board of Aldermen, to perform such duties and receive such compensation as may be prescribed by ordinance. The City Council shall require the City Engineer, Health Officer and such other officers or agents of said city as it may deem proper, to give good and sufficient bond, with approved security, for the faithful performance of his duty, in such sum as it may prescribe."

Sec. 7. That section twenty-three of the above recited act shall hereafter read as follows:

"Sec. 23. That the salaries and fees of the officers of said city shall be at the following rates, for each and every year, commencing from the date of their qualification, viz: Mayor, two thousand dollars; Alderman, shall be an office of honor and shall serve without pay; Street Commissioner, fifteen hundred dollars; City Recorder, six hundred dollars, in addition to his fees; Secretary and Treasurer, two thousand five hundred dollars; City Marshal, six hundred dollars, and such fees as may be allowed by the City Council; Assessor and Collector of Taxes, such commissions as may be allowed by the City Council, not to exceed the sum of four thousand dollars; City Attorney, eighteen hundred dollars."

Sec. 8. That section twenty-four of the above recited act shall hereafter read as follows:

"Sec. 24. That the City Council shall have power and authority to determine the dimensions and provide for grading, paving, repairing, or otherwise improving the streets and sidewalks, or any parts or portions thereof, within the limits of the city, and to make provision for the payment of the cost and expense thereof, in whole or in part, by the levy, assessment and collection of a tax upon the lot or lots fronting thereon, which assessment shall be a charge against the owner of the lot or the lots, as well as a charge and lien upon the property itself; to maintain the cleanliness of the city; to secure the safety and convenience of passing in the streets, sidewalks and other public places in the city; to fix the squaring and to prevent encroachments and obstructions on the streets, sidewalks, squares, ways, levees, and public roads and places; to fix the place for anchoring of all water crafts on Buffalo Bayou; to establish an active system of inspection over the conduct of persons and premises; to prevent cattle, horses, swine, goats, geese and animals from running at large in the streets; to establish and maintain a city police, prescribe the duties of policemen, and regulate their conduct; to provide for lighting the streets, and for this purpose may establish gas works for the manufacture of gas for the use of the city and the inhabitants thereof,

at cost price; to determine in what part of the city slaughter houses bone boilers, soap boilers and other establishments for any business which is, or may be injurious to the value of adjacent property, or unwholesome or disagreeable to the occupant of adjacent property, shall not be allowed to be erected; to determine in what part of the city, wooden buildings shall not be erected. Within the limits prescribed, no person shall be admitted to erect such buildings. To prevent gun powder or other explosive material, kerosene oil, or other inflammable oils being stored within the city limits in such quantities as to endanger the safety of adjacent property; to provide means for the protection and extinguishment of conflagrations, and for the regulation, maintenance and support of a fire department; to permit or forbid theaters, balls, and other public amusements, and to suppress the same, whenever the preservation of order, tranquillity or public safety may require; to close dram shops, drinking saloons and other places, where intoxicating liquors are sold, whenever necessary or expedient; to define what shall be deemed nuisances in said city, and to abate them by summary proceedings; to provide a work-house for vagabonds and disorderly persons, who are unable to pay fines, and make regulations concerning the same; to provide and keep a city prison; to make all needful and proper rules and regulations concerning bakers, butchers, keepers of taverns, grog-shops and other public houses, draymen, horse drivers, water carriers, omnibus drivers, hack drivers and drivers of baggage wagons; and especially to preserve order and prevent noise and confusion in and about the several depots on the arrival and departure of railway trains; to prevent extortions by carriers of passengers and baggage, hacks, drays, and all public conveyances, by establishing maximum rates of charges; to direct and control the laying and construction of railroad tracks, turnouts and switches, and to require that they be constructed and laid so as to interfere as little as possible with the ordinary travel and use of the streets; to require railroad companies to keep the streets through which they run, in repair, and to light the same whenever deemed necessary; to construct and keep in repair bridges and crossings at the intersection of streets and avenues, and over all ditches, sewers and culverts on the line of the railway; to regulate the speed of engines and locomotives within said city; to control and regulate everything concerning street railways, and generally to make and establish all rules, regulations, by-laws and ordinances which may contribute to and promote the better administration of the affairs of said city, as well as for the maintenance of the peace, tranquillity and safety of said city, and for the protection of persons, and prosperity of its inhabitants.

The City Council of the city of Houston are hereby empowered and authorized to take and condemn land and real estate in said city to the public use, viz: For streets, alleys, and public highways; for extending, straightening and widening those streets now in use; for public wharves and landing places for steamers and other water crafts, and for public squares, parks and pleasure grounds.

For the condemnation of any land or real estate, the following proceedings shall be had: The City Attorney or attorneys employed by said city for that purpose, shall file a petition in the District Court of Harris county, against the owner of the land or real estate sought to be condemned for any of the purposes aforesaid, setting forth:

First—The name or names and residence of the owner or owners, if known, and if unknown, the same shall be stated.

Second—The description by metes and bounds of an actual survey had for that purpose, of the land or real estate sought to be condemned.

Third—The purpose for which the same is proposed to be taken and applied.”

Fourth—The supposed value of the property sought to be condemned,

Fifth—The prayer that the same be condemned to the public use for the purpose as stated.

And upon the filing of such petition, like proceedings shall be had thereon as in other civil suits, and when personal service cannot be had by reason of the defendant being a non-resident, or unknown, service by publication shall be made, as provided in other cases in the District Court; and upon trial the Court shall proceed to render judgment, condemning the land to the public use, upon the payment of the value thereof, as assessed by the jury; and upon any suit being brought thereafter against the said corporation for such property so condemned, a copy of the judgment, and an actual tender of the money in court, shall be a sufficient answer in bar of a recovery in any such suit.

All costs of proceeding for the condemnation of land and real estate, under this act, shall be taxed against the plaintiff, including reasonable fees of the Attorney which the Court shall appoint to represent the defendant, when cited by publication.

Sec. 9. That section thirty-one of the above recited act, shall hereafter read as follows:

“Sec. 31. That the City Council, by a vote of the majority of the whole number of Aldermen, taken by yeas and nays and entered upon their journal, shall have power to assess, license, and tax hawkers, pedlers, auctioneers, theatrical and other exhibitions, shows and amusements, billiard tables, nine and ten pin alleys, public drays, wagons, omnibuses and carriages, grog shops, tippling houses, and dram shops, beer saloons (whether for the sale of domestic beers and liquors, or otherwise), and such other trades and occupations, not especially mentioned herein, as may be taxed by the laws of the State; but no assessment or license tax levied under this section shall exceed one half the amount levied by the State for the same period on such profession or business.

Sec. 10. That section thirty-two of the above recited act shall hereafter read as follows:

“Sec. 32. That the City Council shall have power by ordinance to annually levy, assess and collect taxes not exceeding two per cent. ad valorem upon all real and personal estate and property in the city, not exempt from taxation, and to determine when taxes shall be paid by corporations, and when by the individual corporators; and to levy and collect from each male inhabitant of the city, over the age of twenty-one years, an annual poll tax of one dollar. All taxes on real estate shall be a lien and charge upon the property and it may be subjected to the payment of the same.”

Sec. 11. That section thirty-three of the above recited act shall hereafter read as follows:

“Sec. 33. That the license tax shall be collected by the Assessor and Collector of Taxes, and shall be paid to that officer in current funds of the United States, by each and every person and firm owing such license, and before engaging in any trade, profession, business, calling, avocation or occupation subject to such tax, taking his receipt therefor, which receipt

shall entitle him, her or them to a corresponding license, to be issued by the Mayor; and if any person shall engage in any business, calling, avocation or occupation, which, by an ordinance of said city, is subject to a license tax, without first having obtained such license, he, she or they shall be liable to arrest and imprisonment, and a fine of ten dollars for each and every day such violation of said ordinance may continue, and this section shall apply to all persons owing any license and failing to pay the same, and the City Council may make such further regulations as it deems necessary to enforce the provisions of this section, and punish the violation thereof."

Sec. 12. That section thirty-four of the above recited act shall hereafter read as follows:

"Sec. 34. That the City Council may and shall have full power to provide by ordinance for the prompt collection of all taxes levied, assessed and due, or becoming due to said city, and to that end may and shall make such rules and regulations, and pass such ordinances as it shall deem necessary to the levying, laying, imposing, assessing and collecting of any of said taxes; and to regulate the manner and mode of making out tax lists and inventories, and the appraisement of property therein; and to prescribe the oath that shall be administered to each person on such rendition of property, and to prescribe how and when property shall thus be rendered; and to fix the duties and define the powers of the Assessor and Collector of Taxes; and adopt such measures as they may deem advisable to secure the assessment of all property in the limits of the city, and collect the taxes thereupon in current money of the United States; and may, by ordinance, provide that any person, firm or corporation, having or controlling property in said city, subject to taxation, and failing or refusing to render a list, inventory and appraisement thereof, verified, as may be required by any ordinance of said city, shall be liable to fine and imprisonment. That the City Council shall appoint, annually, from its own members, at such time as it may determine, three appraisers, who shall be styled the Board of Appraisement, and whenever the party rendering property for assessment, and the Assessor and Collector cannot agree in the valuation of such property, it shall be referred to said Board, and their action in appraising the same shall be final; provided, that at the meeting of said Board, the owner of the property, or party rendering the same, shall have the opportunity of being heard. Said Board shall also appraise all property assessed as unknown or unrendered, and shall receive such reasonable compensation for their services as the City Council shall allow. The City Council, may, if it sees proper, adopt as near as circumstances will permit the same mode and manner of assessing and collecting taxes as may be prescribed by law for assessing and collecting State taxes; and all taxes due the city may be collected by an action of debt in any court having jurisdiction. The assessment rolls shall be taken as prima facie evidence of the statements made therein, and the city shall have the equal right to become the purchaser at all sales of property for taxes due it, made under judgments, or otherwise.

Sec. 13. The well government of said city of Houston being an object of imperative public necessity, and an emergency to be immediately provided for, this act shall take effect and be in force from and after its passage.

Approved August 4, 1876.

Takes effect from its passage.

CHAPTER XIII.—An Act to incorporate the City of San Antonio and grant a new charter to said City, and to repeal an act, entitled, "An Act to incorporate the City of San Antonio," approved July 17, 1856, and an act, entitled, "An Act to amend the act to incorporate the City of San Antonio," approved February 11, 1860, and "An Act to grant a new charter to said City of San Antonio," approved August 13, 1870.

ARTICLE I—GENERAL PROVISIONS.

Section 1. Be it enacted by the Legislature of the State of Texas, That all the inhabitants of the city of San Antonio are hereby constituted a body corporate and politic and shall have power: First—To sue and be sued. Second—To purchase and hold real and personal property for the use of the city, and to purchase and hold real and personal property, sold for the non-payment of taxes. Third—To sell and convey any real or personal estate owned by the city, and make such order respecting the same as may be conducive to the interests of the city. Fourth—To make all contracts and do all other acts in relation to the property and concerns of the city, necessary to the exercise of its corporate or administrative powers. Fifth—To have a corporate seal.

Sec. 2. That the bounds and limits of said city, within which said corporation shall have jurisdiction, shall include a square, of which the sides shall be equi-distant, measured from what is now known as the main plaza, and three miles therefrom, or six miles square.

Sec. 3. The powers herein granted shall be exercised by the Mayor and City Council, as hereinafter set forth.

Sec. 4. The city of San Antonio shall be divided into four wards, the boundaries thereof shall be fixed by the City Council, and may be changed from time to time, as they may deem expedient; having regard for the number of inhabitants, so that each ward shall contain, as near as may be, the same number of qualified electors for city elections.

Sec. 5. That on the second Monday in January, A. D. 1877, and every two years thereafter, a Mayor, Recorder, City Collector, City Treasurer, City Engineer, City Physician, City Marshal and Street Commissioner, shall be voted for, and the returns of such elections shall be made in the manner hereinafter provided.

Sec. 6. That on the second Monday in January, 1877, and every year thereafter, one City Councilman shall be elected from each ward, to serve for three years. The returns for such election shall be made as provided for in Section 5.

Sec. 7. Every male inhabitant of the city, who has resided within the city for a period of six months next previous to an election, who is at least twenty-one years of age, a citizen of the United States, or has declared his intention of becoming a citizen of the United States, shall be entitled to vote at any city election; provided, that in all elections to determine the expenditure of money or assumption of debt, only those shall be qualified to vote who pay taxes on property in the city.

Sec. 8. All the power given judges of elections, by any general law of this State, is hereby conferred on such officers of this city.

Sec. 9. The Mayor shall give public notice of the holding of an election at least fifteen days preceding the day of election; and should the Mayor fail to give such notice, then any two of the City Councilmen may order the same.

Sec. 10. At all elections for city officers, the voters shall vote by ballot, and only in the wards wherein they respectively reside.

Sec. 11. Each ward shall constitute an election district; and polls shall be opened at such place therein as may be designated by ordinance, or by the authority ordering the election; provided, that nothing in this act shall contravene any general law of this State regulating elections.

Sec. 12. The Mayor or other authority ordering elections, shall provide suitable rooms and arrangements for polls of elections.

Sec. 13. The City Council shall appoint the Judges of Elections for each ward, who shall have power to appoint two clerks to aid them in conducting the election. In case of a failure or refusal of the Council to act, then the authority ordering the election shall appoint the Judge aforesaid.

Sec. 14. On the failure or refusal of the city authorities to perform any of the duties prescribed in Sections 9, 11, 12 and 13, it shall be the duty of the County Judge to perform the same.

Sec. 15. No person shall serve as a Judge of Election who is a candidate at said election; and each Judge of said Election, and each Clerk of said election, shall take and subscribe before some officer authorized to administer oaths, the oath of office prescribed in Section 1, Article 16, of the Constitution of the State; which oath shall be filed with the City Clerk.

Sec. 16. At the first meeting of the City Council after the promulgation of the result of the election for Mayor, Recorder, Councilman, Collector, Treasurer, Engineer, Physician, Marshal, and Street Commissioner, the Councilmen, or a majority of them, shall, upon nomination by the Mayor, proceed to elect one City Attorney, one City Assessor, one City Clerk, one or more Market Masters, one or more Water Commissioners, one or more Assistant Marshals, and such Police and other officers as they may deem necessary for the proper administration of the city government, and for the interests of the city; provided, that the election of Market Masters, Water Commissioners and Assistant Marshals shall not be compulsory; and the Councilmen shall elect only such of them as may be deemed necessary; and, provided further, that the Mayor shall not place the same person in nomination more than twice; and, provided further, that the term of office of every officer named in this section shall be held to begin at the time of the first meeting of the City Council herein mentioned.

Sec. 17. The polls shall be kept open from 8 o'clock a. m., to 6 o'clock p. m., on the day of election.

Sec. 18. The City Attorney, City Clerk, Assessor, Market Master, Water Commissioners and Assistant Marshals shall hold their offices for two years, and until their successors are qualified, being subject, however, to removal by the Council for malfeasance, incompetency, or other cause, that may be provided for by ordinance. The police and other officers appointed by the Council, and not hereinbefore mentioned in this section, shall hold their positions at the pleasure of the City Council, and shall be subject to immediate suspension by the Mayor for neglect of duty or incompetency.

Sec. 19. In case of riot, disturbance or violence in any ward in the city, the Judges of Election shall make a report of said riot, disturbance or violence, which report shall accompany the election returns to the returning officers.

Sec. 20. The Mayor shall cause all places where all intoxicating liquors are sold or given away, to be closed during the day of election until the

polls are closed; and the City Council shall provide by ordinance for the enforcement of this section; provided, that at all elections, except general elections for city officers, it shall be left to the discretion of the Mayor to enforce or not the provisions of this section.

Sec. 21. The Judges of Elections shall proceed immediately upon the closing of the polls to count the votes, and such counting shall be conducted in the presence of at least three persons besides the Judges of Elections and Clerks, and they, the said Judges, shall make the return to the returning officers.

Sec. 22. Judges and Clerks of Election shall receive for their services such compensation as may be allowed by ordinance.

Sec. 23. The Mayor, and at least two of the City Councilmen, shall be the returning officers of election; and they shall, within five days after the election, proceed to open and canvass the returns, investigate any accompanying reports, reject illegal votes or returns, and declare the result of the election.

Sec. 24. The returning officers shall publish the result of the election in the official journal of the city, and send official notice to persons elected, on the day following the counting of the returns; and such officers elected shall appear within ten days after receiving such notification of election, before some officer empowered to administer oaths, and take the oath of office prescribed in Section 1, Article 16 of the Constitution of this State. In case any officer elected, fails to take the oath within the time prescribed, his office may be declared vacant by the City Council.

Sec. 25. When two or more persons shall have received an equal number of votes for any elective office provided in this charter, a new election shall be ordered.

Sec. 26. The Mayor shall hold his office for a term of two years, and until his successor is duly elected and qualified; and he shall receive for his services a salary of two thousand five hundred dollars per annum.

Sec. 27. Each ward shall be represented in the City Council by three Councilmen, who shall hold their offices for three years, and until their successors are qualified.

Sec. 28. No person shall fill any office made elective under this charter who is not a citizen of the United States and of the State of Texas, and who shall not have been a resident of the city of San Antonio at least one year immediately preceding his election, and who, at the time of his election, has not paid or is owing a city tax then due.

Sec. 29. If the mayoralty should become vacant by death, resignation or removal of the incumbent, a majority of the Councilmen may elect one of their number Mayor for the time being, to fill the vacancy, until his successor is elected and qualified. Should such vacancy occur more than nine months prior to the first regular election, then, in that case, a new election for the unexpired term shall forthwith be ordered, and holden in the same manner as hereinbefore provided for regular city elections. The person selected to act as Mayor for the time being shall receive the same compensation to which the Mayor would have been entitled.

Sec. 30. The Mayor may be removed from office for malfeasance in office, by a vote of three-fourths of all the City Councilmen.

Sec. 31. In case of vacancy in the office of City Councilman in any ward of the city, such vacancy shall be filled by a vote of the City

Council, until the next regular election, when, if any unexpired term remain, an election shall be held to fill the same.

ARTICLE II—POWERS OF THE MAYOR AND COUNCIL.

Sec. 32. The Mayor and the City Councilmen shall constitute the City Council for said city. The City Council shall meet at such times and places as they shall, by resolution, direct. The Mayor, when present, shall preside at all the meetings of the City Council, and shall have, in all cases, a casting vote. In his absence, any one of the Councilmen may be appointed to preside, in which case the Councilman who presides shall vote as Councilman.

Sec. 33. The City Council shall hold regular meetings at stated times, at least once in each month, and the Mayor, of his own motion, or on application of two members of the Council, may call special meetings.

Sec. 34. Petitions and remonstrances may be presented to the Council in writing only, and the Council shall determine the rules of its own proceedings, and have power to compel the attendance of absent members, and with the concurrence of three-fourths of all the Councilmen elected, may expel a member.

Sec. 35. The City Council shall have the care, management and control of the city, and its property and finances, and shall have power to enact and ordain any and all ordinances not repugnant to the Constitution of this State, and provisions of this charter.

Sec. 36. The City Council shall have power to borrow money on the credit of the city, and issue bonds therefor, to an amount not to exceed twenty-five thousand dollars during any one year. To make a loan exceeding twenty-five thousand dollars, the question must be submitted to the qualified voters of the city; and if sustained by a vote of two-thirds of the votes polled, such loan shall be lawful. All bonds issued by the city shall be signed by the Mayor, countersigned by the City Clerk, registered by the Treasurer, and the corporate seal shall be thereon impressed; they shall specify for what purpose they were issued and not be invalid if sold for less than their par value. And when any bonds are issued by the city, a fund shall be provided to pay the interest, and two per cent. per annum on the principal, as a sinking fund, to redeem the bonds, which fund shall not be diverted or drawn for any other purpose, and the City Treasurer shall honor no draft drawn on said fund, except to pay interest, or to redeem the bonds for which it was provided; and for the payment of such loan to levy a special tax, over and above the general tax allowed by this act; provided, the rate of tax shall not exceed one-half of one per cent.; and the rate of interest paid shall not exceed ten per cent.; provided, also, no loan shall be made for any other purpose, or purposes, other than those connected with the corporation of said city. The sinking fund for the redemption of any loan or debt to be invested, as fast as the same accumulates, in United States interest bearing bonds, bonds of the State of Texas, or in the city bonds; and such bonds, and interest of said bonds, to be re-invested, and to be sold when necessary to pay debts or loans.

Sec. 37. To provide, by ordinance, special funds for special purposes, and to make the same disbursable only for the purposes for which the fund was created.

Sec. 38. To appropriate money and to provide for the payment of the debts and expenses of the city.

Sec. 39. To provide the city with water; to make, regulate, and establish public wells, pumps, cisterns, fountains, hydrants, reservoirs, in the streets or elsewhere, within the said city or beyond the limits thereof, for the extinguishment of fires and the convenience of citizens, and to make, establish, and regulate all irrigating ditches, and to have entire control of the same.

Sec. 40. To fill up old ditches, wells, pools or other places where stagnant water or foul matter may accumulate to the detriment of the health and convenience of the citizens.

Sec. 41. To make regulations to prevent the introduction of contagious diseases into the city, to make quarantine laws for that purpose, and to enforce the same within five miles of the city.

Sec. 42. To make regulations to secure the general health of the city, and to prevent and remove nuisances, and to make and prescribe regulations for the cleaning and keeping in order of all slaughter-houses, stock-yards, warehouses, stables, privies or other places where offensive matter is kept or liable to accumulate.

Sec. 43. To provide for the lighting of the streets and the erection of lamp posts; to exclusively regulate, direct and control the laying and repairing of the gas pipes and gas fixtures in the streets, alleys, sidewalks and elsewhere.

Sec. 44. To erect and establish market-houses and market-places, and to regulate and govern the same; to require the hides and skins of animals slaughtered for sale thereat to be inspected, that the marks and brands may be preserved in a record to be kept for that purpose; and to provide for the erection of all other useful and necessary buildings for the use of the city, and for the protection and safety of all property belonging to the city.

Sec. 45. To provide for the removal of officers of the city for misconduct; and to create any office, or employ any agent, they may deem necessary for the good government and interest of the city.

Sec. 46. To regulate the police of the city, and to impose fines for the breach of any ordinance, and provide for the recovery and collection thereof; and in default of payment, to provide for confinement in the city prison or work-house, or to hard labor in the city.

Sec. 47. To regulate and prescribe the duties and powers and compensation of all officers, agents and employes of the city, not herein provided for.

Sec. 48. To require of all officers or agents of the city, elected or appointed in pursuance of this act, bonds and security for the faithful performance of their duties.

Sec. 49. To have the exclusive control and power over the streets, alleys, sidewalks, lanes, avenues and public grounds, and highways of the city, and to abate and remove encroachments or obstructions thereon; to open, alter, widen, straighten, extend, establish, abolish, regulate, grade, re-grade, clean, pave, macadamize or otherwise improve the same; to put drains and sewers therein, and to prevent the encumbering thereof, in any manner, and to protect the same from any encroachments or injury.

Sec. 50. To regulate the making of sidewalks, their grade, material and mode of construction, when such sidewalks are made by private persons.

Sec. 51. To provide measures to keep the waters of the river and streams pure; to remove all obstructions or dams in said river or streams

within the limits of the city; to widen and deepen the channels of said river and streams to prevent overflows; to alter and establish the channels of any streams, ditches or water courses within the limits of said city, when the health, safety or convenience of the city may require such to be done, and to wall up or cover said ditches or canals.

Sec. 52. To establish, erect, construct, regulate and keep in repair bridges, culverts and sewers, sidewalks and crossways, and to regulate the construction and use of the same, and to abate any obstructions or encroachments therein, and provide punishment therefor; and the cost of the construction of sidewalks shall be defrayed by the owners of the lot or part of lot, or block, fronting on the sidewalk; and the cost of any sidewalk constructed by the city, together with all the costs of collection, shall constitute a lien upon such lot, part of lot or block; and in the event of failure or refusal to pay such costs, or any part thereof, suit may be brought in any court of competent jurisdiction for the recovery of the same.

Sec. 53. To provide for the enclosing, regulating and improving of all public grounds and cemeteries belonging to the city; and to direct and regulate the planting and preserving of ornamental and shade trees in the streets, sidewalks and public grounds.

Sec. 54. To erect, establish and regulate one or more work-houses, houses of correction, and poor-houses, and provide for the government and support of the same; and to regulate or prohibit the establishment of private hospitals.

Sec. 55. To prevent, regulate and control the driving of cattle, horses and all other animals, into or through the city.

Sec. 56. To regulate the carrying of deadly weapons within the city limits, and provide for the forfeiture of the same.

Sec. 57. To compel all persons to keep all weeds, filth or any kind of rubbish from the sidewalks, streets and gutters in front of the premises occupied by them; to require and compel the owners to fill up, grade and otherwise improve the sidewalks in front of and adjoining their property; also, to compel owners of property, through which any water, ditch or drain, runs, to wall up the same.

Sec. 58. To regulate the construction of buildings, and to cause unsafe buildings to be made safe or be removed, and to prohibit the use of certain materials deemed unsafe, and to require of every person wishing to erect a building in the city, to take out a permit for the same, and to keep a register of all buildings, both private and public, erected of the kind of material used, and of the intention of such buildings.

Sec. 59. To restrain, regulate and prohibit the selling or giving away of any intoxicating or malt liquors, by any person within the city; to forbid and punish the selling of liquors to any minor or habitual drunkard.

Sec. 60. To provide for taking the census of the city.

Sec. 61. To licence, tax and regulate billiard tables, pin alleys, ball alleys, hackmen, draymen, omnibus drivers and drivers of baggage wagons, porters and all others pursuing like occupations, with or without vehicles, and prescribe their compensation and provide for their protection, and make it a misdemeanor for any person to attempt to defraud them of any legal charge for services rendered; to license, tax and regulate merchants, commission merchants, hotels and boarding-house keepers, restaurants, drinking-houses or saloons, bar-rooms, beer-saloons, and all places or establishments where intoxicating or fermented liquors are sold,

brokers, pawn-brokers, money-brokers, real estate agents, insurance-brokers, insurance agents and auctioneers, and all other trades, professions, occupations and callings, the taxing of which is not prohibited by the Constitution of the State, which tax shall not be construed to be a tax on property.

Sec. 62. To license, tax and regulate, suppress and prohibit hawkers, peddlers, pawn-brokers and keepers of theatrical or other exhibitions, shows and amusements, public balls, dances, and all other places of resort and public amusement, theatres, circuses, the exhibitions of common showmen and shows of every kind, and the exhibition of natural and artificial curiosities, caravans, menageries and musical exhibitions and performances, to regulate, license and restrain runners for railroads, stages and public houses; to suppress and restrain disorderly houses, tippling-shops, bawdy-houses, houses of prostitution or assignation, lotteries and all fraudulent devices and practices, and all kinds of indecencies, gambling and gambling houses; and to suppress gaming and gambling of all kinds and descriptions, and to prevent the same by forcibly entering all houses used for gaming, and to arrest such parties and punish all persons engaged in gaming, or any person renting a house for the same, by fine or imprisonment, and to place a police force at the entrance of such houses, and arrest all persons attempting to enter there, until the police have had full admittance to the premises.

Sec. 63. To provide for the employment of standard weights and measures within the city; and for the detection and punishment of persons using fraudulent and false weights and measures.

Sec. 64. To prevent and suppress any riot, affray, noise, disturbance, or disorderly assembly, in any public or private place in the city.

Sec. 65. To regulate the riding, driving or fastening of animals in the streets of the city.

Sec. 66. To restrain and punish vagrants, mendicants, street-beggars and prostitutes; such punishment to be by fine, imprisonment, or hard labor.

Sec. 67. To prevent the erection of all factories or establishments, on the banks of streams or ditches, which will be foul or make impure their waters.

Sec. 68. To regulate the weight and quality of bread to be sold and used in the city, and generally everything relating to bakers, butchers, tavern-keepers, restaurants, fruit vendors, eating houses and bar-rooms, except the price of the articles vended.

Sec. 69. To establish and regulate public pounds, and to regulate the running at large of horses, mules, cattle and sheep; to regulate, restrain and prohibit the running at large of swine or other animals, and to authorize the distraining, impounding and sale of the same for the costs of proceeding and the penalty incurred, and to impose penalties on the owners thereof for a violation of any ordinance in relation thereto.

Sec. 70. To tax, regulate, restrain and prohibit the running at large of dogs, and to authorize the distraining, impounding and destruction of the same, and to impose penalties on the owners and keepers thereof.

Sec. 71. To prohibit and restrain the rolling of hoops, flying of kites, firing of fire-crackers, or firing of fire arms, or fire works, use of velocipedes or use of any pyrotechnic or other amusement or practice tending to annoy persons passing in the streets or sidewalks, or to

frighten horses or teams; to restrain and prohibit the ringing of bells, blowing of horns or bugles, playing of street organs or other street music, crying of goods, and all other noises, practices or performances tending to the collection of persons on the streets and sidewalks, by auctioneers and others, for the purpose of business, amusement or otherwise.

Sec. 72. To do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease.

Sec. 73. To compel the owner or occupant of any grocery, soap, tallow or chandler establishment, any blacksmith shop, tannery, stable, slaughter-house, distillery, brewery, sewer, privy or other unwholesome or nauseous house or place, to cleanse, remove or abate the same, as may be necessary for the health, comfort and convenience of the inhabitants.

Sec. 74. To direct the location and regulate the management and construction of brew(e)ries; tanneries, blacksmiths' shops, founderies, livery stables and manufacturing establishments; to direct the location and regulate the management and construction of and restrain, abate and prohibit within the city, slaughtering establishments and hide houses, or establishments for keeping or curing hides, tallow, offal and such other substances as may be rendered, and all other establishments or places where nauseous, offensive or unwholesome business may be carried on.

Sec. 75. To regulate the burial of the dead; to purchase, establish and regulate one or more cemet(e)ries; to regulate the registration of deaths; to direct the reurning and keeping of bills of mortality, and impose penalties on physicians, sextons and others for any default in the premises.

Sec. 76. To regulate and determine the times and places of bathing and swimming in the waters within said city, and prevent any obscene or indecent exhibition, exposure or conduct.

Sec. 77. To abate and remove nuisances, and punish the authors thereof, by penalties, fines and imprisonment, and to define and declare what shall be nuisances, and authorize and direct summary abatement thereof.

Sec. 78. To prevent all boxing matches, sparring exhibitions, cock and dog fighting, bull fighting and all brutal exhibitions, and punish all persons thus offending.

Sec. 79. To prevent all trespasses, breaches of the peace and good order, assaults, assaults and batteries, fighting, quarrelling, using any abusive and insulting language, misdemeanors and all disorderly conduct, and punish all persons thus offending.

Sec. 80. To prevent and punish the keeping of houses of prostitution within the city or within such limits therein as may be defined by ordinance, and to adopt summary measures for the removal, or suppression, or regulation and inspection of all such establishments.

Sec. 81. To direct and control the laying and construction of railroad tracts, turnout and switches, or prohibit the same in the streets, avenues and alleys, and location of depot grounds within the city; to require that railroad tracks, turnouts and switches shall be so constructed as to interfere as little as possible with the ordinary travel and use of the streets, avenues and alleys, and that sufficient space shall be left on either side of said tracks for a safe and convenient passage of teams,

carriages and other vehicles and persons; to require railroad companies to keep in repair the streets, avenues or alleys through which their track may run; and, if ordered by the City Council, to light the same, and to construct and keep in repair suitable crossings at the intersections of streets, avenues and alleys, and ditches, sewers and culverts, when the City Council shall deem necessary; to direct the use, and regulate the speed of locomotive engines within said city, or prevent and prohibit the use or running of the same within the city.

Sec. 82. Exclusively to prevent, control and regulate everything connected with city railroads, and to make such rules and regulations for the same as the City Council may deem necessary.

Sec. 83. To require the owner, agent or occupant of any ground, lots, yards, private drain, sinks and privies, to fill up, cleanse, alter, repair, fix and improve the same as may be ordered by the Mayor, or any resolution or ordinance of the city; and in the event of any failure, neglect or refusal to comply with such order, the party so failing shall be liable to fine and imprisonment. In the event of there being no person in the city on whom such order can be served, the city may have such work done and such improvements made on account of the owner thereof, and all proper costs, charges and expenses shall be a lien on the property, on the filing of a memorandum thereof by the Mayor, under the seal of the corporation, and recording the same with the County Clerk, and the city may enforce said lien and institute suit in the corporate name, and obtain judgment against said party for the amount so due as aforesaid, in any court having jurisdiction.

Sec. 84. To inspect all buildings and establishments for educational or asylum purposes; to see that the inmates thereof are properly treated, and to require all institutions, of whatever nature, used as asylums, colleges or boarding schools, to make a report of the number of inmates and sanitary condition of the same, every month.

Sec. 85. The City Council shall have power to pass, publish, amend and repeal all ordinances, rules and police regulations, for the good government, peace and order of the city and the commerce thereof, that may be necessary or proper to carry into effect the powers vested by this act in the corporation, the city government, or any department thereof; provided, that no power herein granted shall be contrary to the Constitution of the State or to the provisions contained in this charter; and the City Council shall also have power to enforce the observance of all such rules, ordinances and police regulations, and to punish violations thereof by fines, penalties and imprisonment in the prison, work-house or house of correction, or both, in the discretion of the court before whom conviction may be had, not to exceed the limit of penalty prescribed by ordinance; and no fine shall exceed two hundred dollars, nor any term of imprisonment be more than two months for any one offense; and for any fine, penalty and costs imposed by the Recorder in the trial of any cause or complaint before him, execution may issue to collect such fine and costs, to be levied and executed in the same manner that executions are from the District Court; the same shall be issued by the City Clerk, under the corporate seal, to the City Marshal, who, in levying on property and selling, shall have like power and authority as the Sheriff of the county in executions issued from the District Court; the laws of the State, so far as applicable, shall apply to and be in full force and effect as to executions issued from the Recorder's Cou(r)t and the City Marshal executing the same. Any person upon

whom any fine is imposed, and who fails or refu(s)es to pay the same, with costs, may be imprisoned in the city prison, or work-house or house of correction, or be required to labor on the streets or other public works of the city, for such time and in such manner as may be provided by ordinance.

ARTICLE III—POWERS OF THE MAYOR.

Sec. 86. The Mayor shall have power to sign or veto any ordinance, resolution or regulation passed by the City Council. Any ordinance, resolution or regulation vetoed by the Mayor may be passed over the veto by a vote of two-thirds of the whole number of Councilmen elected, notwithstanding the veto; and should the Mayor neglect or refuse to sign any ordinance, resolution or regulation, or return the same with his objections in writing at the next regular meeting of the Council, the same shall take effect without his signature.

Sec. 87. All orders and drafts upon the Treasurer for money shall be signed by the Mayor, and shall be attested by the City Clerk.

Sec. 88. The Mayor shall preside at all the meetings of the City Council, except as herein otherwise provided, and shall have a casting vote when the councilmen are equally divided, and not otherwise, and shall have the superintending control of all the officers and affairs of the city, and shall take care that the ordinances of the city and this act are complied with.

Sec. 89. He shall sign the commissions or appointments of all persons elected or appointed in the city government.

Sec. 90. He shall be a conservator of the peace throughout the city, and shall, in cases of emergency, have power to appoint special policemen and dismiss the same at pleasure, being responsible to the City Council for his action.

Sec. 91. He shall, from time to time, communicate to the City Council such information and recommend such measures as in his opinion may tend to the improvement of the finances of the city, the police, health, security, ornament, comfort and general prosperity of the city.

Sec. 92. The Mayor, or any two Councilmen, shall have power to call special meetings of the City Council, the object of which shall be submitted to the Council in writing, and the call and object thereof shall be entered on the journal by the Clerk.

Sec. 93. The Mayor shall have power, when he deems it necessary, to require any officer of the city to exhibit his accounts or other papers, and to make report to the Council, in writing, touching any subject or matter he may require pertaining to his office.

Sec. 94. The Mayor shall be active and vigilant in enforcing all laws and ordinances for the government of the city, and he shall cause all subordinate officers to be dealt with promptly for any neglect or violation of duty; he shall have jurisdiction, as may be vested in him by ordinance, over all places within five miles of the corp(or)ate limits of the city, for the enforcement of any health or quarantine ordinance or regulation thereof.

Sec. 95. The Mayor is hereby authorized to call on every male inhabitant of the city, over eighteen years of age and under the age of fifty years, to aid in enforcing the laws and ordinances of the city; and in case of necessity, to call out the organized military companies and militia within the city, to aid in the suppression of any riot, or in the enforcement of any ordinance; and any person who shall not obey such call shall forfeit to the city a fine not exceeding one hundred dollars.

Sec. 96. The Mayor shall have power to suspend the enforcement or collection of any fine, penalty or forfeiture, and shall report his action, with his reasons therefor in each case, to the City Council, at its first meeting thereafter, for its final action.

Sec. 97. The Mayor shall have power by and with the consent of the Council, to appoint all officers, other than those provided for in this act that may be deemed by the Council necessary for the good government and efficient police of the city; and to remove from office, by and with the consent of the Council, any person holding an office created by ordinance.

Sec. 98. In case of the temporary absence or illness of the Recorder, or in case of vacancy in the office of Recorder, the Mayor shall have like power with the Recorder to try all cases of violation of the city ordinances, and it shall be his duty to do so.

Sec. 99. The Mayor shall have power to solemnize marriages; to administer oaths of office, and also all other oaths and affirmations, and to give certificates thereof.

ARTICLE IV—POWERS AND DUTIES OF RECORDER AND OTHER CITY OFFICERS.

Sec. 100. The Recorder shall hold his office for the term of two years, and until his successor is qualified, unless sooner removed; and shall be the chief judicial magistrate of the city, and, as such, shall hold a court within said city by the name of the Recorder's Court of the city of San Antonio, which said court shall have jurisdiction and cognizance in all misdemeanors, breaches of the peace, infractions of the ordinances, and all other causes arising under the laws of said city, and shall be deemed always open for trial of said cases. The said court shall have full power, authority and jurisdiction in all cases arising under the ordinances of said corporation, and for any breaches and violation thereof, and of any and all persons thus offending, and to try and determine all suits, actions and complaints charging a violation of any ordinance of said city; and may grant new trials, on motion in writing, showing sufficient cause, and duly sworn to. The Recorder may require of any person arrested under the provisions of this act a bond for his or her good behavior, and to keep the peace, with two good and sufficient sureties, which bond shall be payable to the city of San Antonio. He shall have full power and authority to issue subpoenas for witnesses, and to compel their attendance by process of attachment. He may punish all contempts by fine and imprisonment, or either; may issue subpoenas, writs of *capias*, warrants of arrest, search warrants, executions, and all other process known to the law which a Justice of the Peace of this State may lawfully issue; and all of said writs and process shall be issued, served and executed, under the same forms and in the same manner as the like process would be when issued by a Justice of the Peace, unless herein otherwise provided. He shall also have full power and authority to administer official oaths, and all oaths or affirmations, and give certificates thereof. The Recorder shall entertain no jurisdiction in civil suits, except the forfeiture and collection of bonds taken in his court. The City Council may determine what costs shall be charged in proceedings in and for all process issued in said court, and shall allow the Recorder for his services a salary of twelve hundred dollars per annum; and the Recorder shall perform such other duties as may be prescribed by any ordinance of said corporation not inconsistent with this act and the Constitution of this State.

Sec. 101. Persons arraigned for violation of city ordinances, and demanding a trial by jury, shall be entitled to the same, and the jury so empannelled shall consist of six legal jurors, all of whom shall be citizens of the city of San Antonio; and in all such trials only challenge for cause shall be allowed; and provided, that persons so tried shall, in the event of conviction, be taxed in the sum of three dollars for the payment of the jury fees in each case.

Sec. 102. The Recorder shall be a conservator of the peace, and his court shall be open every day, except Sunday, to hear and determine any and all cases, cognizable before him, and he shall have power to bring parties forthwith before him for trial.

Sec. 103. In all cases before the Recorder, an appeal may be taken by the defendant to the County Court, in the manner provided by law for appeals in similar cases from Justices' Courts.

Sec. 104. Any person convicted before the Recorder, of an offense under the ordinances of the city, shall be punished by fine or imprisonment, and hard labor, as may be regulated by ordinance.

Sec. 105. The Assessor of the city shall make up the assessments of all property taxed by the city, in accordance with this act, and the directions of the City Council, and shall perform such other duties as may be prescribed by the City Council, and he shall receive for his services a salary of eighteen hundred dollars per annum.

Sec. 106. The Treasurer shall receive and securely keep all moneys belonging to the city, and make all payments, upon the order of the Mayor, attested by the Clerk. He shall keep regular and correct accounts of the real, personal and mixed property, and shall render a full and correct quarterly statement of his receipts and payments to the City Council, and whensoever at other times he may be required by them, shall do and perform such other acts and duties appertaining to his office as the City Council may require, and for his services shall receive a salary of twelve hundred dollars per annum.

Sec. 107. The powers and duties of Street Commissioner, and the salary for his services, shall be prescribed by resolution or ordinance of the City Council.

Sec. 108. The powers and duties of the City Sexton, Market Masters, Water Commissioners, Policemen and other officers and employes not herein named, shall be defined and their salaries fixed by the City Council.

Sec. 109. The Collector shall collect all taxes due the city, and shall in the performance of his duties, observe the provisions of this act, and the ordinances of the city relating thereto. He shall at the expiration of every week, pay to the Treasurer all the money by him collected, in the same funds received by him, taking duplicate receipts therefor, one of which shall be filed with the City Clerk on the next Monday thereafter and shall report to the City Council at the first meeting of that body, in each month, all moneys so collected and paid, and he shall perform all such other duties appertaining to his office, in such manner and according to such rules and regulations as the City Council may prescribe. He shall collect all sums due from licenses, give receipts for the same, as well as for all other moneys paid him for taxes, and for that purpose said Collector shall keep a book containing printed blank receipts, as well as corresponding marginal summaries, and before the delivery of any receipt, shall fill up a blank therefor, as well as the corresponding marginal summary in said book, leaving therein the corres-

ponding marginal summary as a permanent register of his office, subject to public inspection. He shall produce said register at every regular meeting of the City Council, and at any special meeting when required. He shall require all persons doing any business for which a license may be necessary, to take out such license. He shall report to the Mayor all persons engaged in any business illegally or without license. He shall give notice to all tax-payers within one week after receiving the tax-list, by advertising in the official journal of the city, and by posters, that said taxes are due and payable, and when the same may be paid, and shall generally comply with such rules and regulations as the City Council may prescribe. The Collector shall receive for his services a salary of eighteen hundred dollars per annum.

Sec. 110. The City Marshal, either in person or by deputy, shall attend the Recorder's Court while said Court is in session, and shall promptly and faithfully execute all writs and process issued from said court; he shall also attend all general and special meetings of the City Council. He shall be the chief police officer of the city, under the Mayor. He shall have like power with the Sheriff of the county to execute the writ of search-warrant; he shall be active in quelling riots, disorders and disturbances of the peace within the limits of said city, and shall take in custody all persons so offending against the peace of the community. and shall have authority to take suitable and sufficient bail for the appearance before the Recorder's Court, of any person charged with an offense against the ordinances or laws of the city. It shall be his duty to arrest all violators of the public peace, and all persons who shall obstruct or interfere with him in the execution of the duties of his office, or who shall be guilty of any disorderly conduct or disturbances whatsoever; to prevent a breach of the peace, or to preserve quiet and good order. He shall have authority to close any theatre, bar-room, drinking house or other place or building of public resort, in the suppression of crime and arrest of offenders. He shall have powers, and execute like power, authority and jurisdiction as the Sheriff of a county, under the laws of the State, within the city limits. He shall receive for his services a salary of eighteen hundred dollars per annum, and he shall perform such other duties, and shall be invested with such other powers, rights and authority as the City Council may, by ordinance, require and confer, not inconsistent with the Constitution and the provisions of this act.

Sec. 111. The Assistant Marshals shall be subject to the authority of the City Marshal; and they shall have like power and perform like duties with him.

Sec. 112. The duties of the Engineer shall be fixed by the City Council, and he shall receive for his services a salary of fifteen hundred dollars per annum.

Sec. 113. The City Attorney shall represent the city in all cases now pending or hereafter to be brought in any court sitting in Bexar county. He shall attend upon the meetings of the City Council to give his advice and counsel; he shall give his opinion upon all legal questions concerning the city; he shall aid, when called upon, to revise or draw up any ordinance, resolution or regulation; and he shall do all such other professional business concerning the city that the Council may require of him. And for all services he shall receive a salary of two thousand dollars per annum. In the Recorder's Court he may appear by deputy.

Sec. 114. That it shall be the duty of the City Clerk to attend every meeting of the City Council, and keep accurate minutes of the proceed-

ings thereof in a book to be provided for that purpose, engross and enroll all laws, resolutions and ordinances of the City Council; to keep the corporate seal; to take care of, preserve and keep in order all the books, records, papers, documents and files of the city; to countersign all commissions issued to the city officers and licenses issued by the Mayor, and to keep a record or register thereof, and to make out all notices required under any regulation or ordinance of the city. He shall countersign all warrants drawn on the Treasurer, and keep an accurate account thereof in a book to be kept for that purpose. He shall also be Clerk of the Recorder's Court, and shall have custody of all books and papers belonging to said court. He shall make out all process and writs, and enter upon a docket all complaints for a violation or infraction of city ordinances before the Recorder, and his judgment or sentence therein. He shall have power and authority to administer all oaths or affirmations. He shall be the general accountant of the corporation, and shall keep in books regular accounts of all receipts and disbursements for the city and, separately, under proper heads, each cause of receipt and disbursement, and also accounts with each person, including officers who have money transactions with the city, crediting amounts allowed by proper authority, and charging each with all warrants drawn in his favor, and specifying the particular transaction to which such entries apply.

Sec. 115. He shall keep a financial record of the city in a proper book-keeping style, and publish a statement thereof at the end of each quarter. He shall also keep a register of bonds and bills issued by the city, and of all evidence of debt due and payable to it, noting the particulars thereof, and of all facts connected therewith as they occur. He shall carefully keep all contracts made by the city, and he shall do and perform all such other duties as may be required of him by any ordinance, resolution or order of the City Council. He shall receive for his services a salary of eighteen hundred dollars per annum.

Sec. 116. The duties of all officers not herein mentioned shall be prescribed and regulated by the City Council.

ARTICLE V—EDUCATION.

Sec. 117. The City of San Antonio is constituted a separate and independent school district; and the City Council is vested with exclusive power to maintain, regulate, direct and govern all the public free schools now established or hereafter to be established within the limits of the city; and it is furthermore authorized and directed to pass such ordinances, rules and regulations, not inconsistent with the Constitution of the State and this act, as may be necessary to establish new schools, purchase building sites, construct school-houses, and to carry out the provisions of this act relating to education.

Sec. 118. The city school fund heretofore held in trust by the city or its authorities shall be transferred to the exclusive management of the City Council; and all unsettled claims due the school fund from lands sold by the city shall be collected as speedily as possible, and all money or property recovered shall be held inviolate for the use and benefit of the public free schools of the city; and the City Council shall also have the exclusive control, for public school purposes, of all the money arising from the distributive pro rata share of the public school fund of the State to which the city, as a school district, may be entitled.

Sec. 119. The title of all lands owned by the city, and held in trust

for school purposes, and of all property held for the use and benefit of public schools, shall be vested in the City Council in trust for the sole and exclusive use of the public free schools of the city; provided, that no land so held in trust, or that may hereafter be acquired for school purposes, shall be sold or otherwise diverted from the uses herein indicated, without a vote of two-thirds of the City Councilmen elect, and the consent of the State Board of Education.

Sec. 120. The City Council shall make such appropriation for the use and benefit of the public schools of the city as the necessity of the same may require; provided, that such appropriation shall never exceed, for any one year, one-eighth of the total revenue of the city for that year; and all appropriations so made, together with all other school funds belonging to the city, shall be held by the City Treasurer, separate and apart from the other funds of the city, for the sole use and benefit of its public schools, to be controlled and disbursed in such manner as the City Council may provide and direct.

ARTICLE VI—OF TAXATION.

Sec. 121. The City Council shall have power within the city, by ordinance, to annually levy and collect taxes for general purposes, not exceeding one per cent. on the assessed value of all real and personal and property in the city.

Sec. 122. To levy and collect special taxes for special purposes; provided, such special taxes shall not exceed one per cent. on the property taxed annually.

Sec. 123. The City Council shall have power to levy and collect taxes, commonly known as licenses, upon all trades, professions, callings, occupations or other business carried on in the city, on which a license tax is levied by the State, and for the same period during which such State tax is so levied; provided, that the license tax so levied and collected by the city shall not exceed one-half of the license tax levied by the State for the same trades, professions, callings, occupations or other business; and provided, further, that no person engaged in mechanical or agricultural pursuits, shall ever be required by the city to pay an occupation tax.

Sec. 124. Any person or firm pursuing occupations, business avocations or callings subject to a license tax, shall pay on each, and no license shall extend to more than one establishment or include more than one occupation, avocation, business or calling.

Sec. 125. The City Council shall have power to provide by ordinance for the levying, assessing and collecting of the taxes aforesaid, and determine when taxes shall be paid by corporations, and when by the individual corporators; provided, no tax shall be levied unless by consent of two-thirds of the Councilmen elected.

Sec. 126. The license tax shall be collected by the Collector, and shall be paid to that officer by each and every person, or firm or corporation owing such license. Upon the presentation of the receipt of the Collector, the City Clerk shall issue the license under the corporate seal of the city, signed by the Mayor and City Clerk. That if any person shall engage in any business, avocation or occupation, which, by ordinance, is subject under this act to a license tax, without first having obtained such license, he, she or they shall be liable to imprisonment, and a fine of ten dollars for each day said violation of said ordinance may continue; and this section shall apply to all persons

owing any license and failing to pay the same. Said taxes, commonly known as licenses, laid as herein provided, shall not be construed to be a tax on property within the meaning of any other section of this act.

Sec. 127. Bonds of the United States, bonds of the State, and of the city of San Antonio, shall not be subject to tax under this act.

Sec. 128. The following property, and none other within the city, shall be exempt from taxation, to-wit: Public property used for public purposes; actual places of religious worship; places of burial, not held for private or corporate profit; and institutions of purely public charity; provided, that two hundred and fifty dollars worth of household and kitchen furniture belonging to each family residing in the city shall be exempt from taxations; and provided, further, that nothing contained under this title of taxation shall be construed to prevent the City Council from imposing, levying and collecting special assessments for the improvement of avenues, streams, ditches, streets and alleys, as hereinafter provided.

ARTICLE VII—COLLECTION OF TAXES.

Sec. 129. The City Council shall have full power to provide by ordinance for the collection of all taxes assessed, levied, imposed and authorized by this act, that may be due to the city; and may and shall have power to sue in the name of the city, in any court of competent jurisdiction, all persons or corporations owing such taxes.

Sec. 130. Any tax due to the city by delinquent or defaulting taxpayers shall be a lien upon the property assessed for the levying of such tax, which shall be superior to all other liens or mortgages upon the same property, except liens for State or county taxes, accruing and attaching prior to the maturity of such city tax; and in the collection of all judgments in tax suits the City Council shall have power to direct the seizure and sale of the property liable for the tax; and the Sheriff or other officer selling the same, shall, in the name of the owner, execute and deliver a deed for each parcel of property so sold to the person or corporation purchasing the same; and the City Council shall have power to provide, by ordinance, for the redemption, by the owner, of any property purchased by the city at any such tax sale.

Sec. 131. In all suits in which the city seeks to recover a tax due to the city, the approved assessment rolls of the city, or a copy of the material portions thereof, certified to by the Mayor and City Clerk, with the corporate seal attached, shall be *prima facie* evidence of the amount of tax due, of the identity of the property taxed and of the party owing the same.

Sec. 132. When real estate or other property is offered for sale for the payment of taxes, the smallest portion of the land or other property shall be sold for which any person will take the same and pay the taxes, costs and fees; provided, no objection to this mode of sale is made by the owner or agent of said property at the time of sale.

Sec. 133. That if any person, firm or corporation, shall fail, neglect or refuse to pay the taxes levied and imposed on the property of such person, firm or corporation, within the time prescribed by the ordinances of the city, the City Collector shall at once make out a delinquent list of all persons, firms or corporations that have neglected, failed or refused to pay such taxes, adding thereto ten per cent. as a penalty for thus refusing, failing or neglecting to pay such taxes, and the said taxes shall bear interest at the rate of twelve per cent. per annum, from

and after the end of the fiscal year for which such taxes are due; and the said City Collector shall place the said delinquent list in the hands of the City Attorney, for collection by suit.

Sec. 134. The Collector, after the completion of the assessment roll, as required by ordinance, shall proceed to collect the taxes therein mentioned, within the time, and give such notice as may be prescribed by the City Council, and for that purpose shall serve every person, firm or corporation taxed, or their agent or attorney, with a written or printed demand for the payment of the taxes charged upon the property of such person, firm or corporation, and such service shall be made at the residence, office or place of business of such person, firm or corporation; provided, that if any person, firm or corporation thus owing taxes has no residence, office or place of business, and no agent in the city, or none known to the Collector, then the ordinary published notice required by ordinance shall be sufficient.

Sec. 135. It shall be the duty of the Assessor, at the expiration of the time fixed by ordinance for the rendition of property, to ascertain what property in the city subject to taxation has not been given in; and a list of all such property as is subject to taxation shall be by him presented to the Board of Appeal in a supplement to the assessment roll, as unknown, specifying the year for which said tax is due, and the amount thereof, and if said tax is not paid within the time prescribed by law, said property shall be subject to like penalty, and the said tax thereon shall be collected in like manner as is indicated herein, providing for the collection of other delinquent taxes.

Sec. 136. Whenever the assessor shall ascertain that any taxable property, real or personal, has not been assessed for any past year, he shall assess the same in his next assessment roll (in a supplement thereto), at the same rate under which such property should have been assessed for such year, stating the years for which such property should have been assessed, and the taxes thereon shall be collected in the same manner as other assessments. In all cases where any party has omitted to render property for taxation for any former year or years, and such taxes have not been paid, such party shall give such property in for assessment for the years thus omitted, and pay said taxes, and the Assessor shall enter such property in a supplement to his next assessment roll, under the head of assessments for former years.

Sec. 137. It shall be the duty of the Assessor to assess and return within the time fixed by the City Council all property subject to taxation, and to make out a list of such property, describing as near as possible, the quantity, streets and bounds of real estate, and the value of the grounds, and that of the improvements separately, and to make out a list of all personal property, and return the same assessed; and all property not returned to the Assessor, according to the provisions of this act, he shall proceed to assess in the name of the owner, if he be known, and if not, then it shall be assessed by description of the property and last known owner; and the value of all such property shall be determined by the Board of Revision and Appeal, and the same may be proceeded against as in other cases.

Sec. 138. There shall be a Board of Revision and Appeal, composed of the Mayor, and one Councilman from each ward, to be selected by the City Council, to which Board the Assessor shall submit the tax list. The said Board shall receive and investigate all written complaints addressed to it by parties claiming to have been injured or aggrieved by

the excessive assessment of property, and shall promptly determine all matters thus referred for its action; it shall have power to increase or diminish any assessment of property; and this power may be exercised whether specially invoked or not; and it shall have power, and is directed to appraise all property assessed as unknown, and to correct all errors that may occur in relation to the assessment of property within the city. The City Council may provide a compensation for said Board, which shall not exceed five dollars per day for each member thereof, during the time of their actual service on said Board. After the Board have revised such tax list, the Assessor shall make out a correct list, which shall be immediately delivered to the Collector, who shall give a receipt for the aggregate amount thereof, which shall be charged to him. If, after or before payment of taxes by any person, any error is discovered in amount, such error shall be corrected by the Board, on application in writing, and the overcharge, if paid, shall be refunded to the person having paid the same.

Sec. 139. The fiscal year of the city shall begin on the first of January, and end on the thirty-first of December, of each year.

Sec. 140. The City Council shall have power, by ordinance, to regulate the mode and manner of making out tax lists or inventories, and the appraisements of property, and to prescribe the form of oath that shall be administered to each person on such rendition of property, and to prescribe how and when property shall thus be rendered, and to prescribe the number and form of assessment rolls, and fix the duties and define the powers of the Assessor and the Collector, and adopt such measures as they may deem advisable to secure the assessment of all property within the limits of said city and collect the tax thereupon; and may, by ordinance, provide that any person, firm or corporation, having property subject to taxation, or being liable for any tax under the provisions of this act, and neglecting to render a list, inventory and appraisement thereof, as required by any ordinance of said city, shall be liable to fine.

ARTICLE VIII—STREETS, AVENUES, ALLEYS, ETC.

Sec. 141. The City Council shall be invested with full power and authority to grade and macadamize, pave, repair, straighten, widen or otherwise improve any public square, avenue, street, or alley or any portion thereof, within the limits of the city, whenever, by a vote of two-thirds of the Councilmen, such improvement may be deemed by them for the public interest.

Sec. 142. Whenever it is determined to make any such improvement, under the power hereby conferred, the City Council shall cause an estimate to be made of the probable cost thereof, by the City Engineer, and shall make provisions for obtaining an accurate report of all the lots lying on each side of the public square, avenue, street or alley to be improved, and of the owners of such lots, and the expenses incurred for all such improvements shall be paid in the proportion of one-third by the city and one-third each by the owners of property lying on each side of the said improvements, which proportion of such expenses so incurred by such owners shall constitute a lien upon their said property; provided, that all expenses incurred for improvements at the intersection of streets shall be paid by the city alone; and provided, further, that all expenses incurred for improvements on any public square shall be paid

jointly by the city and owners of adjoining property in such proportion as the City Council may in each case determine.

Sec. 143. That after such action on the part of the City Council as above provided for, and the assessed proportion of expenses ascertained and approved by the City Council, notice shall be given as may be provided by ordinance, to the parties interested, of the amounts for which they may be respectively assessed, which amounts shall thereupon become due and payable to the city; and in the event of failure or refusal to pay the same, the City Council shall have power to proceed in the manner herein provided for the collection of other taxes.

Sec. 144. In the widening or straightening of any avenue, street or alley, the City Council shall determine the width and manner of the work to be done, and shall cause the damage and benefit arising therefrom to the owners of the property thereby affected, to be equitably assessed, taking into account the benefit accruing to the property by such work, and if the owner or other party legally interested be dissatisfied with such decision, he may appeal to the City Council, and that body shall finally hear and determine the controversy. If no such appeal be taken, the City Council shall order the work to be done.

Sec. 145. All assessments made in pursuance of the provisions contained in the preceding sections shall be a lien on the lots and pieces of ground subject to the same from the time the amount thereof shall have been ascertained, and in case any error or irregularity should occur in assessing, levying or collecting any such assessments, proceedings may be taken anew, so as to obviate any such error or irregularity.

Sec. 146. Whenever it shall become necessary to appropriate private property for the use of the city, and such appropriation shall be declared necessary by ordinance, the Mayor, with the approval of the Council, shall appoint three disinterested freeholders of the city, who, after being first duly sworn to perform the duties of their appointment with fidelity and impartiality, shall assess the damage to the owners of the property respectively by such appropriation; such assessment shall be reported to the Council, and when confirmed by them, the damages shall be payable, as provided in the next section; provided, this section shall not be considered as conflicting with section one hundred and forty-four, relating to widening of streets, alleys and avenues.

Sec. 147. Such damages shall be paid to the owners of such property, or deposited with the City Treasurer, subject (to) the order of such owners, respectively, before such property shall be taken for the use of the city.

Sec. 148. If the assessment of the freeholders be not confirmed by the Council, proceedings may be taken anew to assess damages.

ARTICLE IX—FIRE DEPARTMENT.

Sec. 149. The City Council, for the purpose of guarding against the calamities of fire, shall prohibit the erection, building, placing, moving or repairing of wooden buildings within such limits, within said city, as they may designate and prescribe, and shall also, within said limits, prohibit the moving or putting up of any wooden building from without such limits; and shall also prohibit the removal of any wooden building from one place to another within said limits, and shall direct, require and prescribe that all buildings within the limits so designated and prescribed as aforesaid, shall be made or constructed of fire proof material; and to prohibit the rebuilding or repairing of wooden build-

ings within the fire limits, when the same shall have been damaged to the extent of fifty per cent. of the value thereof, and to prescribe the manner of ascertaining such damages; to declare all dilapidated buildings to be nuisances, and to direct the same to be repaired, removed or abated, in such manner as they shall prescribe and direct; to declare all wooden buildings within the fire limits, which they may deem dangerous to contiguous buildings, or in causing or promoting fires, to be nuisances, and to require and cause the same to be removed or abated, in such manner as they shall prescribe.

Sec. 150. The City Council shall have power to prevent and prohibit the dangerous construction and condition of chimneys, flues, fire-places, stove-pipes, ovens, or any other apparatus, used in or about any building or manufactory, and to cause the same to be removed, or placed in a secure and safe condition, when considered dangerous.

Sec. 151. To prevent the deposit of ashes in places where they would be liable to produce fire, and to direct the police, or other persons appointed, to enter into all buildings and enclosures to examine if they are in a safe condition, and to cause them to be made safe.

Sec. 152. To regulate the supplies of water for the extinction of fires.

Sec. 153. To prevent the carrying on of manufactories and works dangerous in promoting and causing fires.

Sec. 154. To direct, control and prohibit the keeping and management of houses or any building for the storing of gun-powder and other combustible, explosive and dangerous materials within the city; to regulate the keeping and conveying of the same, and the use of candles and other lights in stables or other like houses.

Sec. 155. To order the building of parapet and partition walls and partition fences, and to regulate and prescribe the manner of doing the same.

Sec. 156. To compel the owners or occupants of houses or other buildings to have scuttles in the roofs, and stairs or ladders leading to the same.

Sec. 157. And generally to establish such regulations for the prevention and extinguishment of fires as the City Council may deem expedient.

Sec. 158. The City Council shall have power to organize such fire department as they may deem necessary, and adopt any system of fire companies they may deem wise and expedient, voluntary or paid; and all volunteer companies shall be subject to the control of the City Council.

ARTICLE X—MISCELLANEOUS.

Sec. 159. Every ordinance imposing any penalty for violation of its provisions, shall, after the passage thereof, be published in every issue of the official journal of the city for ten days, and proof of such publication by the printer or publisher of such newspaper, taken before any officer authorized to administer oaths and filed with the City Clerk, or any other competent proof of such publication, shall be conclusive evidence of the legal publication and promulgation of such evidence in all courts and places. Ordinances passed by the City Council and requiring publication, shall be in force from and after the publication thereof, unless it be therein otherwise expressly provided; ordinances not requiring publication shall take effect and be in force from and after their passage, unless it shall be therein otherwise expressly provided. There shall be a digest of the ordinances of the city which are of a general

nature, published as soon as practicable after the passage of this act, and every two years thereafter.

Sec. 160. All ordinances of the city, when certified to by the City Clerk under the corporate seal, or when printed and published by authority of the City Council in form of a digest herein provided, shall be admitted and received in all courts and places without further proof.

Sec. 161. The style of ordinances shall be, "Be it ordained by the City Council of the City of San Antonio," but may be omitted when published in book or pamphlet form.

Sec. 162. All ordinances, regulations and resolutions now in force in the City of San Antonio, and not in conflict with this act, shall remain in force under this act until altered, modified or repealed by the City Council after this act shall take effect.

Sec. 163. Whenever in the opinion of the City Council, any building, fence, shed, awning, or any structure of any kind, or any part thereof, is liable to fall down and endanger persons or property, they may order any owner or agent of the same, or any occupant of the premises in which such building, shed, awning, or other erection stands, or to which it is attached, to take down and remove the same, or any part thereof, within such time as they may direct; and punish by fine and imprisonment, or either, any neglect, failure or refusal to comply therewith. The City Council shall, in addition, have the power to remove the same at the expense of the city, on account of the owner of the property or premises, and assess the expense on the land on which it stood, or to which it was attached; and shall, by ordinance, provide for such assessment, the mode and manner of giving notice, and the means of recovering any such expense.

Sec. 164. Whenever any person has been required by the Recorder, or Mayor acting as Recorder, to give bond or bonds for good behavior, or any similar bond, and complied with such order, and been guilty of a violation or infraction of any such bond, and the same is proven or established to the satisfaction of that officer in any trial or complaint, such party so offending may be fined in the sum of two hundred dollars, and imprisonment for two months; and the city, in its corporate name, may sue in any court having jurisdiction, for the recovery of the penalty of such bond.

Sec. 165. In all cases where, by any provisions of this act, or by any ordinance passed in pursuance thereof, a person is required to obtain a license for any calling, occupation, business or vocation, and has, on complaint before the Recorder, been adjudged guilty of violating any rule, regulation or ordinance of the City Council, in relation thereto, the Recorder, in addition to fine and imprisonment, or either, may suspend or revoke the license so granted.

Sec. 166. Warrants, drawn upon the City Treasurer for payment of money, shall be for immediate payment, and will not be received for taxes or other dues, due the city, and are not to be considered a circulating medium; and the Mayor is forbidden to draw warrants upon the Treasurer, except under specific appropriations, and not beyond the amount appropriated by the City Council for all purposes under the city government; neither shall any demand, note or promise to pay, on behalf of the city, be issued or signed by the Mayor, in any case save those enumerated in this section, and as already granted in section thirty-six of this act.

Sec. 167. Two-thirds of the City Councilmen shall be a quorum to transact all business.

Sec. 168. The Mayor shall cause a semi-annual exhibit of the financial affairs to be published in the official journal of the city.

Sec. 169. The City Council shall choose a city printer, and regulate the price of printing and advertising.

Sec. 170. The Policemen of the city shall have power to arrest all offenders against the laws of the State, or ordinances of the city, by day or by night, and keep them in the city prison, to prevent their escape, until they can be brought before the proper officer. And when an arrest is made in bailable cases, they shall be guided by the laws of the State, or the ordinances of the city, as the case may be, in taking such bail.

Sec. 171. The Policemen of the city and Assistant Marshal or Marshals, in the discharge of their duties, shall be subject to the orders of the Mayor and Marshal only. The City Marshal and Policemen may arrest any person committing any offense against the peace of the city, or a breach of any city ordinance, committed in their presence, or on complaint of any person, without a warrant. Policemen serving warrants for the arrest of persons shall be deemed the deputies of the City Marshal, and shall have the same power, within the city limits.

Sec. 172. The Marshal, in the discharge of his duty, shall be subject to the orders of the Mayor only.

Sec. 173. The duties, powers and privileges of all officers, of any character, in any way connected with the city government, not herein defined, shall be defined by ordinance of the City Council.

Sec. 174. All fees and perquisites of office are hereby abolished; and the officers of the city shall receive no other compensation from the city for their services, except such as is provided for by this act, or the ordinances passed thereunder.

Sec. 175. All property, real, personal and mixed, in possession or action, and assets of every description, belonging to the city, shall be exempt from execution and sales; but the city shall make provision, by taxation or otherwise, for the payment of any and all the indebtedness due by the city.

Sec. 176. All rights, actions, penalties and forfeitures in suit or otherwise, which have accrued under the law heretofore in force, shall be vested in, and controlled by the corporation hereby created; and no suit pending shall be affected by the passage of this act, but the same shall be prosecuted or defended, as the case may be, by the corporation hereby created.

Sec. 177. All property, real and personal or mixed, belonging to the city of San Antonio, is hereby vested in the corporation created by this act, and the officers of the said corporation now in office shall, respectively, continue in the same until superseded in conformity to the provisions hereof, but shall be governed by this act from and after it takes effect; provided, that the tenure of office, and the compensation of the officers of the city authorized by the charter and ordinances in force at the passage of this act, shall not be affected by the provisions of this charter during the term for which such officers were elected or appointed.

Sec. 178. The cemetery lots which have or may be hereafter laid out and sold by the city for private places of burial, shall, with the appurtenances, forever be exempt from taxes, executions, attachments or forced sale.

Sec. 179. No person shall be deemed an incompetent Judge, Justice, Councilman or Juror, by reason of his being an inhabitant or freeholder in the city of San Antonio, in any action or proceeding in which said city may be a party in interest.

Sec. 180. When, by the provisions of this act, the City Council have power to pass ordinances on any subject, they may prescribe any penalty not exceeding two hundred dollars, for the violation thereof, and imprisonment not to exceed two months; and in case of the imposition of a fine, and non-payment thereof, may provide that the party convicted be committed to jail or house of correction, or be required to work on the alleys, avenues, streets or any public work of the city, for such time as the City Council, may, by ordinance, provide.

Sec. 181. It shall not be necessary in any action, suit or proceeding, in which the city of San Antonio shall be a party, for any bond, undertaking or security to be executed in behalf of the city; but all such actions, suits and proceedings shall be conducted the same as if such bond, undertaking or security had been given; and for all purposes of such actions, suits or proceedings the city shall be liable in the same manner and to the same extent as if the bond, undertaking or security required in other cases, had been duly given and executed.

Sec. 182. The City Council shall have power to prescribe the duties of all the officers and persons appointed by them, or elected to any office or place whatever, subject to the provisions of this act; to revoke any license given under this act; to remit, in whole or in part, and on such conditions as shall be deemed proper, by a vote of two-thirds of all the members present, any fine or penalty belonging to the city, which may be imposed or incurred under this act, or under any ordinance or regulation in pursuance thereof.

Sec. 183. The members of the City Council shall be exempt from jury service during their term of office. Each member of the City Council shall receive five dollars for every meeting attended, and be fined in a like sum for every meeting which he fails to attend, without sufficient excuse for each absence.

Sec. 184. The office of City Councilman shall not be deemed an office of profit, and any person holding office under the State or National Government shall be eligible to the office of City Councilman.

Sec. 185. The City Council shall have power, by a vote of three fourths of all the City Councilmen elected, to remove for incompetency, corruption, misconduct, malfeasance or non-feasance in office, any officer of the city, either appointed or elected, after due notice and opportunity to be heard in his defense.

Sec. 186. Whenever any person shall be removed from any office, or the term for which he was appointed or elected has expired, or he has resigned or ceased to act in such official capacity, he shall deliver over to his successor all books, papers and effects in any way appertaining to his office. Every person violating this provision shall be deemed guilty of an offense, within the meaning of any law of the State punishing the same; and any officer who shall have been intrusted with the collection or custody of funds belonging to the city, who shall be in default to the city, besides being liable to criminal prosecution and a civil action for debt, shall thereafter be incapable of holding any officer (office) under the city, until the amount of his defalcation shall have been fully paid to the city, with twelve per cent. per annum interest thereon.

Sec. 187. That no member of the City Council shall hold any office

or employment under the city government while he is a member of the City Council, unless herein otherwise provided; and no member of the City Council, or any officer of the corporation, shall be directly or indirectly interested in any work, business or contract, the expense, price or consideration of which is paid from the City Treasury, or by an assessment levied by an ordinance or a resolution of the City Council, nor be the surety of any person having a contract, work or business with the city, for the performance of which, security may be required.

Sec. 188. Resignation by any officer authorized to be elected or appointed by this act, shall be made to the City Council in writing, subject to their approval and acceptance; provided, that nothing in this section contained shall apply to appointments by the Mayor; any such appointee wishing to resign shall present his resignation to that officer, in writing, for his action.

Sec. 189. All fines, forfeitures and penalties for the breach or violation of any provision of this act, or of any regulation, order, or ordinance of the city, and all other moneys due the city, shall, when collected, be paid through the City Collector into the City Treasury for the use and benefit of the city.

Sec. 190. The Mayor, City Clerk, Collector, Treasurer, City Attorney, City Marshal, Assistant Marshals, Market Masters and the City Engineer shall each give bond in favor of the city of San Antonio, conditioned upon the faithful performance of duty, in such amount as the City Council may require, with good and sufficient sureties, to be approved by the City Council; and the City Council may require a new bond from any of the said officers whenever, in their opinion, the existing bond is insufficient; and whenever such new bond is deemed proper, the officer from whom the same is required shall perform no official act until said new bond be given and approved; it shall be the duty of the Mayor to cause to be recorded in the office of the County Clerk of Bexar county, every bond required by this section.

Sec. 191. The salaries of all the officers shall be payable monthly, out of the City Treasury, at the end of each month, on warrants drawn by the Mayor and attested by the Clerk.

Sec. 192. That all acts and parts of acts heretofore passed by the Legislature of the State of Texas, incorporating the city of San Antonio, or amendatory to such acts and conflicting with this act, are hereby repealed.

Sec. 193. This act shall be deemed a public act, and may be read in evidence without proof; and judicial notice shall be taken thereof in all courts and places.

Sec. 194. This act shall not have effect or become the charter of the city of San Antonio until it be ratified and accepted by a majority of the qualified voters of said city, voting at an election to be held in said city at such time in the month of September as the Mayor, by proclamation, shall designate. The said election shall be held in accordance with the laws governing elections, and the Mayor shall give due notice thereof. Those electors who wish this act to become the charter, shall have written or printed on their ballots, "For the Charter;" and those electors who wish this act not to become the charter of the said city shall have written or printed on their ballots, "Against the Charter." The Mayor shall within three days, by proclamation, declare the result of the election, and in the event of a majority of the legal votes cast being "For the Charter," this act shall become immediately the charter of

the city of San Antonio; should a majority of the legal votes cast be "Against the Charter," then this act shall be of no force and effect whatever.

Sec. 195. This act being intending to enact several provisions of immediate interest to the city, and to repeal other provisions of immediate interest to the city, and to repeal other provisions of the existing charter in conflict with the Constitution of the State, it is declared that a great public necessity and emergency exist for the earliest enforcement thereof; it is therefore enacted that this act take effect and be in force from and after its passage.

Approved August 7, 1876.

CHAPTER XIV.—An Act to incorporate the city of Dallas, and to grant a new charter to said city.

CHAPTER I.

Section 1. Be it enacted by the Legislature of the State of Texas, That all the inhabitants of the city of Dallas shall continue to be a body politic and corporate, with perpetual succession, by the name and style of the city of Dallas, and as such they and their successors by that name shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises now possessed and enjoyed by said city, and herein granted and conferred, and shall be subject to all the duties and obligations now pertaining to or incumbent on said city as a corporation, and may ordain and establish such acts, laws, regulations and ordinances, not inconsistent with the Constitution and laws of this State, as shall be needful for the government, interest, welfare and good order of said body politic, and under the same name shall be known in law, and be capable of contracting and being contracted with, suing and being sued, implead and being impleaded, answering and being answered unto, in all courts and places, and in all matters whatever, may take hold and purchase, lease, grant and convey such real and personal or mixed property or estate as the purposes of the corporation may require within or without the limits thereof, and may make, have and use a corporate seal, and change and renew the same at pleasure.

CITY LIMITS.

Sec. 2. That the bounds and limits of said city shall be as follows, to-wit: Beginning at a point on the east bank of the Trinity river, at low water mark, directly opposite, westward from the centre of the court-house square, running thence parallel with the Main street one and one-half miles; thence north parallel with Jefferson street three-fourths of one mile; thence west parallel with Main street to said Trinity river; thence down said river, with the meanderings thereof, to the place of beginning; thence east along the line first described one and one-half miles; thence south parallel with Jefferson street three-fourths of a mile; thence west parallel with Main street to said Trinity river; thence up said river, with the meanderings thereof to the place of beginning; provided, that the said limits may be hereafter extended, including and adding more territory to the same, whenever a majority of the qualified electors who shall be freeholders in said territory, shall indicate a desire to be included within the limits of said city.

CHAPTER II—OFFICERS AND THEIR ELECTION.

Sec. 3. The municipal government of the city shall consist of a City Council, composed of the Mayor and two Aldermen from each ward. A majority of the Aldermen elected shall constitute a quorum for the transaction of business, except at called meeting or meetings for the imposition of taxes, when two-thirds of a full Board shall be required, unless herein otherwise specified. The other officers of the corporation shall be a Secretary, a Treasurer, and Assessor and Collector, a City Attorney, a Marshall and City Engineer, and such other officers and agents as the City Council may, from time to time, direct. The Aldermen, Mayor, and Marshal, City Recorder, City Secretary, Treasurer, City Attorney, Assessor and Collector and City Engineer shall be elected by the qualified electors of the city. All of the aforesaid officers to be elected as hereinafter provided for, and shall hold their offices for two years, and until the election and qualification of their successors.

Sec. 4. An election shall be held in each of the wards of said city on the first Tuesday after the first Monday in April next, and annually thereafter, at such place or places as the City Council may direct, and of which thirty days' previous notice shall be given by publication in ——— or more public newspapers of said city. Said election shall be ordered by the City Council, and in case of their failure to order the same, the Mayor of the city may make such order. For the purpose of holding said elections and others ordered, the City Council shall appoint annually, in May, or earlier, in each ward, some competent and suitable person, who shall be the presiding officer at all elections held in his ward. The presiding officer of each ward shall appoint two judges and two clerks who, together with the presiding officer, shall be managers of elections. The presiding officers and judges must be qualified voters in the city. The City Council shall provide for their compensation, and by ordinance regulate and define their powers and duties. The Mayor, whenever an election is ordered, shall give the required notice, and issue to the presiding officers a writ of election; and every published notice of election, shall state the officer or officers to be elected, the place where the election will be held, and the name of the presiding officer thereat. In case the officer so appointed is unable, fails, refuses or neglects to act, the City Council shall make another appointment; and in case no appointed presiding officer appears to open the polls, the qualified electors may appoint such officer, who shall perform the same duties and have like power and authority to act as a first appointee; but in such case, the managers in their returns, or otherwise, shall certify that the presiding officer failed to attend, or neglected to act, and that the person acting as such was duly chosen by the electors present.

Sec. 5. At the first election under this charter, there shall be elected by the qualified voters of said city, voting by ballot, a Mayor, City Marshal, City Recorder, City Secretary, Treasurer, City Attorney and Collector and City Engineer, who shall hold their office two years from the date of said election, and until their successor shall be elected and qualified; and at said first election under this charter, there shall be elected by the qualified voters of each ward, respectively, one Alderman, who shall hold his office for two years from the date of his election; and at each annual election thereafter, there shall be elected one Alderman from each ward, who shall hold his office for two years, and until his successor is duly elected and qualified.

Sec. 6. At all elections under this charter, the ballots of each ward shall be taken separately, the polls being opened in each ward for one day only, from 8 o'clock a. m. until 6 o'clock p. m., with the privilege of a recess of one hour from 12 to 1 o'clock. Should the polls not be promptly opened for the reception of voters by 8 o'clock a. m., the time thus lost shall be extended beyond the hour of 6 p. m., so as to secure the full period of nine hours for voting purposes. On closing the polls, the managers of the election shall immediately proceed to count and cast up the votes for each candidate, and certify and sign the returns in duplicate, one of which shall be sealed up and retained by the presiding officer for future use as a reference, in case of a contested election; the other copy shall be sealed up, with the name of the presiding officer written across the seals, and by the presiding, or in his absence or inability, by one of the judges or clerks, delivered in open session to the City Council on the next day, or as soon thereafter as practicable. The officer so delivering the same shall make oath before the Mayor or one of the Aldermen, that the returns by him delivered have not been altered or opened since being signed and sealed as aforesaid. As received, the City Council shall immediately open the returns from each ward, casting up the votes of the wards for Mayor and Marshal, and entering the same in tabular form on the journals of the Council. The person thus receiving the highest number of votes for Mayor and Marshal shall be declared elected, and in like manner the votes for Alderman in each ward shall be entered on the journals, and the person receiving the highest number of votes for Alderman in the ward in which he is a candidate, shall be declared elected Alderman. The newly elected officers may enter upon their duties on the second Monday after the election; provided, that any officer elect may qualify at any time within thirty days; otherwise the office shall be deemed vacant, and a new election held to fill the same. It shall be the duty of the City Secretary to notify all persons elected or appointed to office, of their election or appointment; and the City Council elect shall meet at the usual place of meeting on the second Monday after their election, or as soon thereafter as possible, and be installed under the provisions of this act.

Sec. 7. That every person not disqualified by law, who shall have attained the age of twenty-one years, and is entitled to vote for members of the Legislature of this State, and shall have resided within the corporate limits of said city for six months next preceding the election, shall be entitled to vote for the officers of said city; provided, nevertheless, that no person belonging to the regular army of the United States shall be so entitled.

Sec. 8. The managers of elections shall be sworn to well and truly to conduct the election, without partiality and prejudice, and agreeable to law, and according to the best of their skill and understanding; which oath shall be administered by the Mayor, City Secretary or any Justice of the Peace; the presiding officer and judges thus qualified, shall have power to administer oaths necessary to the performance of their official duties. When any person offering a vote shall be objected to by any one qualified to vote at such election, the managers shall examine him on oath touching the points objected to, and if he fail in establishing his qualification to their satisfaction, his vote shall be rejected.

Sec. 9. Whenever it so happens in any election that there is a tie between two or more candidates for the same office, all of whom cannot

be elected, the City Council shall declare such election void, as between such candidates only, and immediately order a new election for the office; first giving not less than five days' notice thereof. In the event of a failure to meet on the part of the Council, to examine the election returns, and declare the result, the Mayor shall discharge that duty.

Sec. 10. No person shall be eligible to the office of Alderman in said city, unless he possess the qualifications of an elector, and shall have resided therein for the period of one year, and in the ward from which he is chosen, six months next preceding his election, and paid a city tax, and be, at the time of his election, an owner of real estate in the city, and not in arrears in the payment of any tax or other liability due to the city, or directly or indirectly interested in, or partner of or interested with any one interested in any contract with the city for any public work, or for furnishing any supplies to the city or any of its institutions.

Sec. 11. Before any Alderman shall take his seat in the City Council he shall take and subscribe an oath, that he will support the Constitution of the United States, and of this State, and the provisions of this charter, that he will faithfully discharge the duties of his office, and that he possesses all the qualifications required by this act, and is not subject to any of the (dis)qualifications thereby imposed.

Sec. 12. Any Alderman who ceases to possess any of said qualifications, shall be deemed thereby to have vacated his office; provided, that if any alderman shall remove from the ward in which he was elected, his office shall be deemed vacant, and a new election ordered to fill the same.

Sec. 13. In cases of a vacancy in the office of Mayor or Alderman, or other elective officer, by refusal to accept or failure to qualify, or by death, resignation or otherwise, the City Council shall order a new election to fill such vacancy, and all special elections shall be conducted as is herein provided for the annual election; provided, that in all special elections to fill vacancies, ten days' notice shall be deemed sufficient.

Sec. 14. The City Council shall be composed of the Mayor and Aldermen provided for by this charter. The Mayor shall be President of the Council, and in case of a tie on any question, he shall give the casting vote. At the first meeting of each new Council, or as soon thereafter as practicable, one of the Aldermen shall be elected President pro tem., who shall hold his office one year. In case of failure, inability or refusal of the Mayor to act, the President pro tem. shall perform the duties and receive the fees and compensation of the Mayor.

CHAPTER III—POWERS AND DUTIES OF OFFICERS.

• Sec. 15. Every person elected by the voters of said city to fill any office, or by the City Council, under this act, shall, before entering upon the duties of his office, take and prescribe (subscribe) the official oath prescribed in the Constitution of this State, and the City Council may, by ordinance, require such additional oath as they may deem best calculated to secure faithfulness in the performance of their duties by such officers.

Sec. 16. The Mayor of the city shall be chief executive officer of said corporation, and no person shall be Mayor who has not resided in the city one year, and who does not at the time of his election possess the qualifications of an Alderman as hereinbefore defined; nor shall any person continue in the office of Mayor who shall cease to possess any of said qualifications.

Sec. 17. The Mayor shall be vigilant and active at all times in causing the laws and ordinances for the government of said city to be duly executed and put in force. He shall inspect the conduct of all subordinate officers in the government thereof, and, as far as may be in his power, shall cause all negligence, carelessness and positive violation of duty to be prosecuted and punished. He shall have power, whenever in his judgment the good of the city may require it, to summon meetings of the City Council; and he shall, from time to time, communicate to that body all such information and recommend all such measures as may tend to the improvement of the finances, the police, health, security, cleanliness, comfort, ornament and good government of said city. The Mayor shall also be the chief judicial magistrate of the city until the election and qualification of Recorder, as hereinafter provided.

Sec. 18. That whenever the Mayor shall deem it necessary, in order to enforce the laws of the city, or to avert danger, or to protect life or property, in case of riot or any outbreak, or calamity, or police disturbance, or when he has reason to fear any serious violation of law or order, or any outbreak, or any other danger to said city or the inhabitants thereof, he shall summon into service as a special police force, all, or as many of the citizens as, in his judgment and discretion, may be necessary and proper; and such summons may be by proclamation or order addressed to the citizens generally, or those of any ward of the city, or sub-division thereof, or such summons may be by personal notification; such special police, while in service, shall be subject to the order of the Mayor, shall perform such duties as he may require, and shall have the same power while on duty as the regular police force of said city; and any person so summoned and failing to obey, or appearing and failing to perform any duty that may be required by this act, shall be fined in a sum not exceeding one hundred dollars.

Sec. 19. The Mayor shall have like power with a Justice of the Peace to administer oaths of office, and also all other oaths and affirmations, and to give certificate thereof. He shall possess and execute in the city, in criminal cases, and (all) the powers and duties of a Justice of the Peace. He shall have authority in case of riot, or any unlawful assemblage, or with a view to preserve peace and good order in said city, to order and enforce the closing of any theatre, ball room, grog shop, tippling house, bar room or other place of resort, or public room or building; and may order the arrest of any person violating, in his presence, the laws of the State or any ordinance of the city; and he shall perform such other duties and exercise such other power and authority as may be prescribed and conferred by the City Council.

Sec. 20. All ordinances and resolutions adopted by the City Council shall, before they take effect, be placed in the office of the City Secretary; and if the Mayor approve thereof, he shall sign the same, and such as he shall not sign, he shall return to the City Council with his objections thereto. Upon the return of any ordinance or resolution by the Mayor, the vote by which the same was passed shall be re-considered; and if, after such reconsideration, a majority of the whole number of Aldermen agree to pass the same, and enter their votes on the journal of their proceedings, it shall be in force; and if the Mayor shall neglect to approve or object to any such proceedings for a longer period than three days (Sundays excepted) after the same shall be placed in the Secretary's office, as aforesaid, the same shall go into effect.

Sec. 21. The City Council may, at any time after the adoption of this act, by ordinance establish the office of Recorder of said city, and order the election of a suitable person to fill the same; and, when elected, and qualified, he shall be the chief judicial magistrate of the city, and shall hold his office until his successor is elected and qualified; the election of whom shall be at the next general election of city officers; and, as such, shall hold a court within said city by the name of Recorder's Court of the city of Dallas, which said court shall have jurisdiction and cognizance of all misdemeanors, breaches of the peace, infractions of the ordinances, and all other causes arising under the laws of said city, and shall be deemed always open for the trial of said causes; the said court shall have full power, authority and jurisdiction in all cases arising under the ordinances of said corporation, and over any breaches and violations thereof, and of any and all persons thus offending, and to try and determine all suits, actions and complaints, charging a violation of any ordinance of said city, and may grant new trials, on motion in writing, showing sufficient cause, and duly sworn to; and all prosecutions, trials and proceedings had in said court under this act, shall be governed by the laws and rules regulating trials, prosecutions, and proceedings in Justices' Courts, in force at the time, and shall be entitled to the same fees that Justices of the Peace are allowed for similar services; provided, the city shall pay no cost, and to such additional compensation as may be allowed by the by-laws and ordinances of the corporation. The Recorder may require of any person arrested under the provisions of this act, a bond for his or her good behavior and to keep the peace, with two good and sufficient sureties, which bond shall be payable to the city of Dallas; he shall have full power and authority to issue subpoenas for witnesses, and to compel their attendance by process of attachment; he may punish all contempts by fine and imprisonment, or either; may issue subpoenas, writs of *habeas corpus*, warrants of arrest, search warrants, executions, and all other process known to law, which a Justice of the Peace of this State may lawfully issue; and all of said writs and process shall be issued, served and executed under the same forms, and in the same manner, as the like process would be when issued by a Justice of the Peace, unless herein otherwise provided. He shall also have full power and authority to administer official oaths, and all oaths, and affirmations, and give certificates therefor. The Recorder shall be *ex officio* Justice of the Peace, and he shall possess and execute in the city, in criminal cases, all the powers and duties of such officer, and shall have the same authority and like powers with Justices of the Peace, in the prevention and suppression of crime; provided, that in no case shall he entertain jurisdiction in civil suits. The City Council may determine what costs, if any, shall be charged in proceedings in, and for all process issued in said court, and shall allow the judge thereof for his services, such salary or fees, or either, or both, as they deem necessary; and the Recorder shall perform such other duties as may be prescribed by any ordinance of said corporation, that may properly and lawfully be required of said officer, as the judge of said court, and are not inconsistent with the laws and constitution of this State; provided, that all money collected from fines, of whatever character, imposed by the Recorder, shall be paid into the city treasury, for the use of the city; and, provided further, that until the said office of Recorder is established, and a Recorder is elected, or when the same shall be discontinued, or a

vacancy occur therein, the Mayor of the city shall possess and execute all the powers and duties of Recorder, holding a court which shall be known as the Mayor's court, as set forth in this section, and that may be imposed by ordinance of the city, and shall receive for his services the same fees and compensation.

Sec. 22. The Marshal shall be chief police officer of the city, under the Mayor; may appoint one or more deputies, and shall, either in person or by deputy, attend upon the Recorder's or Mayor's Court, while said Court is in session, and shall promptly and faithfully execute all writs and process issued from said Court. He shall have like power with the Sheriff of the county to execute the writ of search-warrant. He shall be active in quelling riots, disorders, and disturbances of the peace within the limits of said city, and shall take into custody all persons so offending against the peace of the city; and shall have authority to take suitable and sufficient bail for the appearance before the Recorder's or Mayor's Court, of any person charged with an offense against the ordinances or laws of the city. It shall be his duty to arrest, without warrant, all violators of the public peace, and all who obstruct or interfere with him in the execution of the duties of his office, or who shall be guilty of disorderly conduct or disturbances whatever. To prevent a breach of the peace, or preserve quiet and good order, he shall have authority to close any theatre, bar-room, ball-room, drinking house, or any other place or building of public resort; and in the prevention and suppression of crime, and arrest of offenders, he shall have, possess and execute like power, authority and jurisdiction as the Sheriff of a county under the laws of the State. The Marshal shall give such bond for the faithful performance of his duties as the City Council may require, and he shall perform such other duties, and possess such other powers, rights and authority as the City Council may by ordinance and resolutions require and confer, not inconsistent with the Constitution and laws of this State.

Sec. 23. It shall be the duty of the City Secretary to attend every meeting of the City Council, and keep accurate minutes of the proceedings thereof, in a book to be provided for that purpose, and to engross and enroll all laws, resolutions and ordinances of the City Council; to keep the corporate seal; to take charge of and preserve and keep in order all the books, records, papers, documents and files of said Council; to countersign all commissions issued to the city officers, and licenses issued by the Mayor, and to keep a record or register thereof; and to make out all notices required under any regulation or ordinance of the city. He shall draw all warrants on the Treasurer and countersign the same, and keep an accurate account thereof in a book to be provided for the purpose. He shall be the general accountant of the corporation, and shall keep in books regular account of all receipts and disbursements for the city, and separately, under proper heads, each cause of receipt and disbursement; and also accounts with each person, including officers who have money transactions with the city, crediting amounts allowed by proper authority, and specifying the particular transaction to which such entries apply. He shall also keep a register of bonds and bills issued by the city, and all evidence of debt due and payable to it, noting the particulars thereof, and all facts connected therewith as they occur. He shall carefully keep all contracts made by the City Council. He shall have power and authority to administer oaths and affirmations; and copies of all papers filed in his

office, and transcripts from the records of proceedings of the City Council, duly certified by him under the corporate seal of the city, shall be taken as evidence in all courts of this State; and he shall do and perform all such other duties as may be required of him by law, ordinance, resolution, or order of the City Council; and he shall give bond in favor of the city, in such amount and in such form as may be required by the City Council, and with sufficient security, conditioned for the faithful discharge of his duties.

Sec. 24. The Treasurer of said city shall give bond in favor of said city, in such amount and in such form as may be required by the City Council, and with sufficient security, to be approved by the City Council, conditioned for the faithful discharge of his duties. He shall receive and securely keep all moneys belonging to the city, and make all payments for the same upon the order of the Mayor, attested by the Secretary under the seal of the corporation; provided, that no order shall be paid, unless the said order shall show upon its face that the City Council has ordered its issuance, and for what purpose. He shall render a full and correct statement of his receipts and payments to the City Council, at their first regular meeting in every month, and whensoever, at other times, he may be required by them so to do. At the end of every half year, he shall cause to be published, at the expense of the city, a statement showing the amount of receipts and expenditures for the six months next preceding, and the general condition of the Treasury; and he shall do and perform such other acts and duties as the City Council may require.

Sec. 25. The Assessor and Collector shall make up all the assessment of all property taxed by the city, and make duplicate rolls thereof, and on completion of the rolls, shall deliver one of them to the City Secretary. He shall collect all taxes due the city, and in the event of non-payment of any taxes, shall proceed to sell property to raise the amount of taxes so due, and shall, in the performance of his duties, observe the provisions of this act, and the ordinances of the city relating thereto. He shall give bond in such amount and in such form as the City Council may prescribe, with good and sufficient sureties; and the City Council may require a new bond, whenever, in their opinion, the existing bond is insufficient; and whenever such bond is required, he shall perform no official act until said bond shall be given and approved. He shall, at the expiration of every week, pay to the Treasurer all money by him collected; and shall report to the City Council, at the first regular meeting in every month, all moneys so collected and paid; and he shall perform all such other duties, and in such manner and according to such rules and regulations as the City Council may prescribe. The Assessor and Collector is authorized to require the owners of all property subject to taxation to render a correct account of the same, under oath, to be administered by him.

Sec. 26. The City Council shall have power, from time to time, to require other and further duties of all officers whose duties are herein prescribed, and to define and prescribe the powers and duties of all officers appointed or elected to any office under this act, whose duties are not herein specially mentioned, and fix their compensation. They may also require bonds to be given to the said corporation by all officers, for the faithful performance of their duties. The City Council shall provide for filling vacancies in all offices not herein provided for, and in all cases of vacancy, the same shall be filled only for the unexpired term.

Sec. 27. The present Aldermen and all officers of the city of Dallas, now in office, shall hold their respective offices until the termination thereof, as now provided by law.

CHAPTER IV—OF THE CITY COUNCIL, ITS POWERS AND DUTIES.

Sec. 28. The Mayor and Aldermen shall constitute the City Council of the city. The City Council shall meet at such times and places as they shall by resolution direct. The Mayor when present shall preside at all meetings of the City Council, and shall have in all cases a casting (vote), except in elections. In his absence, and absence of President, pro tem., any one of the Aldermen may be appointed to preside.

Sec. 29. The City Council shall hold stated meetings, and the Mayor of his own motion, on the application of three Aldermen, may call special meetings, by notice to each of the members of said Council, the Secretary and City Attorney, served personally, or left at their usual place of abode. Petitions and remonstrances may be presented to the City Council in writing only, and the Council shall determine the rules of its proceedings, and be the judge of the election and qualifications of its own members, and have the power to compel the attendance of absent members, and punish them for disorderly conduct.

Sec. 30. The City Council shall have the management and control of the finances and other property, real, personal and mixed, belonging to the corporation.

Sec. 31. The City Council shall have power to appropriate money and provide for the payment of debts and expenses of the city.

Sec. 32. To provide by ordinance special funds for special purposes, and to make the same disburseable only for the purpose for which the fund was created; and any officer of the city misappropriating said funds, shall be deemed guilty of malfeasance in office, and shall, on complaint of any one interested in said special funds misappropriated, be moved from office, and be incapable thereafter to hold any office in said city, and shall on conviction before any court of competent authority, be fined in a sum not exceeding five hundred dollars, and be imprisoned not exceeding six months.

Sec. 33. To make regulations to prevent the introduction of contagious disease into the city; to make quarantine laws for that purpose, and to enforce them within the city, and within ten miles thereof.

Sec. 34. To provide, or cause to be provided, the city with water; to make, regulate and establish public wells, pumps and cisterns, hydrants and reservoirs, in the streets or elsewhere within said city, or beyond the limits thereof, for the extinguishment of fires and convenience of the inhabitants, and to prevent the unnecessary waste of water.

Sec. 35. To have the exclusive control and power over the streets, alleys, and public grounds, and highways of the city, and to abate and remove encroachments or obstructions thereon; to open, alter, widen, extend, establish, regulate, grade, clean or otherwise improve said streets; to put up drains or sewers therein, and to prevent the encumbering thereof, in any manner, and to protect the same from any encroachment or injury; and to regulate and alter the grade of premises, and to require the filling up and raising of same.

Sec. 36. To establish, erect, and construct, and regulate, and keep in repair, bridges, culverts and sewers, sidewalks and causeways, and to regulate the construction and use of the same, and to abate and punish any obstructions or encroachments thereon; and the cost of the con-

struction of sidewalks shall be defrayed by the owner of the lot, or part of lot or block on which it fronts, together with the cost of collection, in such a manner as the City Council may, by ordinance, provide; and a sale of any lot, or part of lot or block, to enforce collections of costs of sidewalks, shall convey a good title to the purchaser, and the balance of proceeds of sale, after paying the amount due the city and costs of sale, shall be paid by the city to the owner.

Sec. 37. To provide for lighting the streets, and erecting lamp-posts and lamps therein, and regulating the lighting thereof, and from time to time create, alter or extend lamp districts; to exclusively regulate, direct and control the laying and repairing of the gas pipes and gas fixtures in the streets, alleys, sidewalks and elsewhere.

Sec. 38. To establish or erect, or cause to be established or erected, markets and market-houses, designate, control and regulate market places and privileges, inspect, and determine the mode of inspecting meat, fish, vegetables and all produce, and every article and thing therein bought for sale.

Sec. 39. To provide for the enclosing, regulating and improving all public grounds and cemeteries belonging to the city, and to direct and regulate the planting and preserving of ornaments and shade trees in the streets, sidewalks or public grounds.

Sec. 40. To erect or establish one or more hospitals, and control and regulate the same; regulate, and prohibit or permit the establishment of private hospitals.

Sec. 41. To regulate the carrying of weapons, and to prevent the carrying of same concealed.

Sec. 42. To prevent the encumbering of the streets, alleys, side-walks and public grounds with carriages, wagons, carts, hacks, buggies, or any vehicle whatsoever; boxes, lumber, timber, fire-wood, posts, awnings, signs or any other substance or material whatever, or in any other manner whatever; to compel all persons to keep all weeds, filth, and any kind of rubbish from the side-walks, and streets and gutters in front of the premises occupied by them; to require and compel the owners of property to fill up, grade, gravel and otherwise improve the side-walks in front of and adjoining their property: also, to inspect the construction of buildings, and to cause unsafe buildings to be made safe or removed, and to prohibit the use of certain materials deemed unsafe.

Sec. 43. To license, tax and regulate merchants, commission merchants, hotel and inn keepers, drinking houses or saloons, bar-rooms, beer saloons, and all places or establishments where intoxicating or fermented liquors are sold, brokers, money-brokers, real estate agents, insurance agents, insurance brokers, and auctioneers, and all other trades, professions, occupations and callings, the taxing of which is not prohibited by the Constitution of the State, which tax shall not be construed to be a tax on property.

Sec. 44. To license, tax and regulate, or prevent or suppress hawkers, peddlers, pawn-brokers, and keepers of theatrical or other exhibitions, shows and amusements.

Sec. 45. To license, tax and regulate or prohibit theatres, circusses, the exhibition of common showmen, and of shows of any kind, and the exhibition of natural or artificial curiosities, caravans, menageries and musical exhibitions and performances.

Sec. 46. To license, tax and regulate hackmen, draymen, omnibus drivers, and drivers of baggage wagons, porters, and all others pursuing

like occupations, with or without vehicles, and prescribe their compensation, and provide for their protection, and make it a misdemeanor for any person to attempt to defraud them of any legal charge for services rendered; and to regulate, license and restrain runners for railroads, stages and public houses.

Sec. 47. To license, tax and regulate billiard tables, pin alleys, ball alleys; to suppress and restrain disorderly houses, tippling shops and groceries, gambling and gaming houses, lotteries and all fraudulent devices and practices, and to prohibit bawdy-houses of prostitution or assignation, within the limits of the city.

Sec. 48. To authorize the proper officer of the city to grant and issue licenses, and to direct the manner of issuing and registering thereof, and the fees and charges therefor; no license shall be issued for a longer period than one year, and shall not be assignable, except by permission of the City Council.

Sec. 49. To restrain, regulate and prohibit the selling, or giving away indirectly, to evade a tax or penalty, of intoxicating or malt liquors, by any person within the city, except by persons duly licensed; to forbid or punish the same selling or giving away of any intoxicating or malt liquors to any minor, apprentice or habitual drunkard.

Sec. 50. To close drinking houses, saloons, bar-rooms, beer saloons and all places or establishments where intoxicating or fermented liquors are sold, on Sundays, and prescribe hours for closing them; and also all places of amusement and business.

Sec. 51. The City Council shall have full power, by ordinance, to prevent the sale or giving away of any intoxicating liquors in any house or other place where theatrical or dramatic representations are given, and also to prevent intoxicating liquors of any description from being brought into any house or place, where such representations are given, under any pretext whatsoever.

Sec. 52. To make such rules and regulations in relation to butchers as they may deem necessary and proper.

Sec. 53. To regulate the inspection of beef, pork, flour, meal, salt and other provisions, whiskey and other liquors to be sold in barrels, hogsheads and other vessels and packages; to appoint weighers, gaugers and inspectors, and prescribe their duties and regulate their fees.

Sec. 54. To regulate the weight and quality of the bread to be sold or used within the city.

Sec. 55. To create, establish and regulate the police of the city; to appoint watchmen and policemen, and prescribe their duties and powers, and compensation.

Sec. 56. To regulate the election of all elective officers, and provide for removing from office all persons holding office under the provisions of this act, where such election and removal is not otherwise provided by this charter.

Sec. 57. To provide for the appointment of all officers, servants and agents of the corporation not otherwise provided for; but no person shall be appointed a policeman unless he is a qualified voter.

Sec. 58. To fix the compensation of city officers, and regulate the fees of all jurors, witnesses, and others, for services rendered under this act, or under any ordinance; provided, that the compensation of no officer of the corporation shall be diminished during his term of office.

Sec. 59. To cast the vote of the city in all elections for Directors or other officers of railroad or other corporations, in which said city shall be a stockholder.

Sec. 60. To suppress and prevent any riot, affray, noise, disturbance or disorderly assembly in any public or private place within the city.

Sec. 61. To prevent, prohibit and suppress horse-racing, immoderate riding or driving in the streets; to prohibit and punish the abuse of animals; to compel persons to fasten their horses or other animals attached to vehicles, or otherwise, while standing or remaining in the streets.

Sec. 62. To restrain and punish vagrants, mendicants, street beggars and prostitutes.

Sec. 63. To establish and regulate public pounds, and to regulate, restrain and prohibit the running at large of horses, mules, cattle, sheep, swine and goats, and to authorize the distraining, impounding and sale of the same, for the costs of the proceedings and the penalty incurred, and to order their destruction when they cannot be sold, and to impose penalties on the owners or keepers thereof for violation of such ordinances.

Sec. 64. To tax, regulate or restrain, and prohibit the running at large of dogs, and to authorize their destruction when at large contrary to ordinances, and to impose penalties on the owners or keepers thereof, for violations of such ordinances.

Sec. 65. To prohibit and restrain the firing of fire-crackers, guns and pistols, use of velocipedes, use of kites, or use of any pyrotechnics or any other amusement or practices tending to annoy persons passing in the streets or sidewalks, or to frighten horses or teams; to restrain and prohibit the ringing of bells, blowing of horns and bugles, crying of goods, and all other noises, practices, and performances, tending to the collection of persons on the streets and sidewalks, by auctioneers and others, for the purpose of business, amusement or otherwise.

Sec. 66. To abate all nuisances which may injure or affect the public health or comfort, in any manner they may deem expedient.

Sec. 67. To do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease.

Sec. 68. To compel the owner or occupant of any grocery, soap, tallow or chandler establishment, or blacksmith shop, tannery, stable, slaughter-house, distillery, brewery, sewers, privy, hide house, or other unwholesome or nauseous place or house, to cleanse, remove or abate the same, as may be necessary for the health, comfort and convenience of the inhabitants.

Sec. 69. To direct the location of business, tanneries, blacksmith shops, foundries, livery stables, and any manufacturing establishment; to direct the location and regulate the management and construction of, restrain, abate and prohibit within the city, slaughtering establishments and hide houses, or establishments for keeping or curing hides; establishments for making soap; for steaming or rendering lard, tallow, offal, and such other substances as may be rendered, and all other establishments or places where any nauseous, offensive or unwholesome business may be carried on.

Sec. 70. To regulate the burial of the dead; to purchase, establish and regulate one or more cemeteries; to regulate the registration of the deaths, marriages and births; to direct the returning and keeping of bills of mortality.

Sec. 71. To abate and remove nuisances, and to punish the authors thereof, by penalties, fine and imprisonment, and to define and declare

what shall be nuisances, and authorize and direct the summary abatement thereof; to erect and establish one or more work-houses, or houses of correction, within or without the city limits; make all necessary rules and regulations thereof, and appoint all necessary keepers or assistants. In such work-houses or house of correction may be confined all vagrants, stragglers, idle, suspicious and disorderly persons who may be committed by the Mayor or Recorder; and any person who shall fail or refuse to pay the fine, penalty, or costs, imposed for any misdemeanor or breach of any ordinance of the city, may, instead of being committed to jail, be kept therein, subject to labor and confinement.

Sec. 72. To compel and force all offenders against any ordinance of this city, found guilty by the Recorder or Mayor, and sentenced to fine and imprisonment, to labor on the streets and alleys of said city, or on any public work, under such regulations as may by ordinance be established.

Sec. 73. To prevent all trespasses, breaches of the peace and good order, assaults and batteries, fighting, quarreling, using abusive, obscene, profane and insulting language, misdemeanors, and all disorderly conduct, and punish all persons thus offending.

Sec. 74. To prevent and punish the keeping of houses wherein indecent, loud or immodest dramatic or theatrical representations are given, or houses of prostitution within the city, and adopt summary measures for the removal or suppression of all such establishments.

Sec. 75. To require the owners of private drains, sinks and privies, to fill up, cleanse, drain, alter, relay, repair, fix and improve the same, as they may be ordered by any resolution or ordinance of said city; and in the event of any failure, neglect or refusal to comply with any such order, the party so failing shall be liable to fine and imprisonment. In the event of there being no person in the city on whom such order can be served, the city may have such work done and such improvements made, on account of the owner thereof; and all costs, charges and expenses shall be a lien on the property, on the filing of a memorandum by the Mayor, under the seal of the corporation thereof, and recording the same with the Clerk of the District Court; and the city may enforce said lien, and institute suit in the corporate name, and obtain judgment against said party for the amount so due as aforesaid, in any court having jurisdiction.

Sec. 76. To direct and control the laying and construction of railroad tracks, turn-outs and switches, or prohibit the same in the streets, avenues and alleys, unless the same shall have been authorized by law, and the location of depots within the city; to require that railroad tracks, turn-outs and switches shall be so constructed as to interfere as little as possible with the ordinary travel and use of streets, avenues, and alleys, and that sufficient space shall be left on either side of said track for the safe and convenient passage of teams, carriages and other vehicles and persons; to require railroad companies to keep in repair the streets, avenues or alleys through which their tracks may run; and, if ordered by the City Council, to construct and keep in repair suitable crossings at the intersections of streets, avenues, and alleys and ditches, sewers and culverts, when the City Council shall deem it necessary; to direct the use and regulate the speed of locomotive engines within the said city, or to prevent and prohibit the use or running of the same within the city; provided, that the provisions of this section shall apply to railroads known as steam railroads, and not to city, street or horse railroads.

Sec. 77. To have the sole authority to grant the right to any person or persons, corporations or company, to make and construct street railways in any street in said city, which the city may have paid for, and to regulate and to control the same and the use thereof.

Sec. 78. To direct and control the laying and construction of street railways or horse railroads in the streets, avenues, highways and alleys of the city, and require such railways or railroads, and all parts thereof, to be so constructed, laid and kept in repair, as to interfere as little as possible with ordinary travel and use of the streets, avenues and alleys, and require the space between the rails and eighteen inches on the outside thereof to be macadamized, or paved as the roadway beyond such limits may be paved, and kept in repairs by the persons or corporations operating the same or owning the same; this section to apply to railroads or railways constructed, and to those hereafter to be constructed; but this section shall not be construed to authorize the City Council to amend, or in any manner to interfere with the franchises heretofore granted to any street or horse railroad company in said city.

Sec. 79. The City Council shall have power to assess and collect the ordinary municipal taxes upon city or horse railroads, and to compel said city railroad companies to keep their roads in repair, and to make them to conform to the grades of the streets upon which their tracks may be laid, whenever said streets shall have been graded by the city; and to restrain the rate of speed so as not to exceed seven miles per hour, and to compel said city railroads to supply ample accommodations for the safe and convenient travel of the people on the street where their track may run; the City Council may enforce these regulations by proper ordinances, with suitable penalties for any violation of said ordinances.

Sec. 80. To prevent any person from bringing, depositing or having within the limits of said city any dead carcass, or any other offensive or unwholesome substance or matter, and to require the removal or destruction, by any person who shall have placed, or caused to be placed upon or near his premises, or elsewhere, of any substance or matter, filth, or any putrid or unsound beef, pork or fish, hides or skins of any kind; and on his default, to authorize the removal or destruction thereof by some officer of the city, and require the owner of any dead animal to remove the same to such place as may be designated.

Sec. 81. To prevent, regulate and control the driving of cattle, horses and other animals into or through the city.

Sec. 82. The City Council shall have power to pass, publish, amend or repeal all ordinances, rules and police regulations, not contrary to the Constitution of this State, for the good government, peace and order of the city, and the trade and commerce thereof, that may be necessary or proper to carry into effect the powers vested by this act, in the corporation, the city government, or any department or officer thereof; to enforce the observance of all such rules, ordinances, and police regulations, and to punish violations thereof, by fines, penalties and imprisonment in the prison, work-house or house of correction, or to work on the streets or other public works, or either, in the discretion of the court before whom conviction may be had; but no fine or penalty shall exceed one hundred dollars; nor the imprisonment more than fifteen days for any offense, unless a larger fine and longer period of imprisonment is herein allowed: and for any fine, penalty and costs, imposed by the Mayor or Recorder, in the trial of any cause or complaint before him, execution may issue to collect such fine and costs, to be levied and executed in the same manner that ex-

executions are from the District Court; the same shall be issued by the Mayor or Recorder, to the Marshal, who in levying on property and selling, shall have like power and authority as the Sheriff of the county, in executions issued from the District Court; and the laws of the State, so far as applicable, shall apply to and be in full force and effect as to the executions issued from the Mayor's or Recorder's Court, and the Chief Marshal, in executing the same; any person upon whom any fine or penalty is imposed, may be committed until the payment of the same, with costs, and on default thereof may be imprisoned in the city prison or work-house, or house of correction, or may be required to work on the streets or other public work of the city for such time and in such manner as may be provided by ordinance; provided, such imprisonment shall not exceed fifteen days, unless a longer period is herein allowed.

Sec. 83. To pass all necessary ordinances to provide for funding the whole or any part of the existing debt of the city, or of any future debt, by cancelling the evidences thereof, and assuring to the holders or the creditors notes or bonds, with or without coupons, bearing interest at any annual rate not to exceed ten per cent. The Council shall also provide by ordinance for issuing the bonds of the city in such sums as may be agreed upon for railroad subsidies heretofore voted to railroad companies.

Sec. 84. To appropriate so much of the revenues of the city, emanating from whatever source, for the purpose of retiring and discharging the accrued indebtedness of the city, and for the purpose of improving the public markets and streets, erecting and conducting city hospitals, city hall, water works, etc., as they may from time to time deem expedient; and in furtherance of these objects they shall have power to borrow money upon the credit of the city, and issue coupon bonds of the city therefor, in such sum or sums as they may deem expedient, to bear interest not exceeding ten per cent. per annum, payable semi-annually, at such place as may be fixed by the city ordinance; provided, that the aggregate amount of bonds issued by the City Council, including railroad bonds, shall at no time exceed five hundred thousand dollars (\$500,000).

Sec. 85. All bonds shall specify for what purpose they were issued, and shall not be invalid if sold for less than their par value; and when any bonds are issued by the city, a fund shall be provided to pay the interest and create a sinking fund to redeem the bonds, which fund shall not be diverted nor drawn upon for any other purpose; and the City Treasurer shall honor no draft on said fund except to pay interest upon or redeem the bonds for which it was provided.

Sec. 86. Said bonds shall be signed by the Mayor and countersigned by the Secretary, and payable at such places, and at such times, as may be fixed by ordinance of the City Council, not less than ten, nor more than fifty years.

Sec. 87. It shall be the duty of the Mayor, whenever any bond or bonds are issued, to forward the same to the Comptroller of the State, whose duty it shall be to register said bond or bonds in a book kept for that purpose, and to endorse on each bond so registered, his certificate of registration, and to give, at the request of the Mayor, his certificate certifying to amount of bonds so registered in his office up to date.

Sec. 88. It shall be the duty of the Mayor, at the time of forwarding any bonds for registration, to furnish the Comptroller with a statement of the value of all taxable property, real and personal, in the city; also, with a statement of the amount of tax levied for the pay-

ment of interest and to create a sinking fund. It is hereby made the duty of the Comptroller to see that a tax is levied and collected by the city, sufficient to pay the interest semi-annually, on all bonds issued, and to create a sinking fund sufficient to pay the said bonds at maturity, and that said sinking fund is annually invested in good interest-bearing securities, or applied to the redemption of bonds for which it is set aside.

CHAPTER V.—REVENUE.

Sec. 89. The City Council shall have power, and are hereby invested with power, within the city, to annually levy and collect taxes not exceeding one and one-half per centum of the assessed value of all real and personal property in the city not exempt from taxation by the Constitution and laws of the State; provided, that the City Council shall have the power to levy and collect an additional one per cent. on the assessed value of all taxable property, real and personal, in said city, not exempt from taxation by the Constitution and laws of the State, if a majority of those authorized to vote on the assumption of debt, by Section 3, of Article 6, of the State Constitution, shall first have voted in favor of such levy at an election duly ordered by the City Council, the whole number of votes to be determined by the number voting at such election.

Sec. 90. To annually levy and collect a poll tax not exceeding one dollar, for every year, upon all male persons over the age of twenty-one years, and under sixty, residents of the city at the time of assessment.

Sec. 91. That the City Council shall have power to levy and collect taxes annually, known as license or occupation taxes, upon trades, professions, callings and other business carried on, and upon carriages, hack, coaches, buggies, drays, carts, wagons and other vehicles used in the said city, when the same are for public use; that each and every person or firm engaging in the following trades, professions, callings and business, among others, shall be liable to pay such license tax; but this enumeration shall not be considered to deprive the City Council of the right and power to levy and collect other license taxes, and from other persons and firms under the general authority herein granted.

Sec. 92. Every person and firm engaged in selling goods, wares and merchandise; every person and firm selling liquors in quantities under a quart; every person or firm keeping a grog-shop, tippling house, bar-room or drinking saloon; every person or firm keeping a place where spirituous or vinous liquors, wines, cordials or beer are sold in quantities less than one quart; every person or firm keeping a billiard table, ball alley, nine or ten-pin alley, or any similar game; every person or firm keeping a tavern, hotel or boarding-house; every person or firm keeping a restaurant, eating-house, oyster shop, or lunch stand, or place of any description where refreshments are sold; every person or firm keeping a livery stable, sale stable or feed stable; every person or firm selling goods, wares or merchandise at public auction; every person or firm pursuing the occupation of real estate broker or agent, merchandise or cotton broker, or commission merchant, or broker of any kind; every person pursuing the occupation of hawker or pedlar of any goods whatever; every person keeping a brewery, beer shop, or distillery, or fruit stand; every person or firm keeping storage, warehouse, or engag-

ing in compressing cotton, keeping an intelligence office or wagon yard; each and every insurance agent shall pay said city a license tax; and each and every insurance company shall also pay said tax; and each and every insurance agent shall be subject to a fine, as hereinafter set forth, for representing any company which has failed to pay such tax; each and every person or firm keeping a lumber, wood or coal yard, or any place for the sale of the articles aforesaid, or building material, and all other persons engaged in any business whatever, from whom the Council may require said tax by authority in this act granted, each establishment shall be liable for said tax; and any person or firm pursuing occupations, business, avocations, or callings, subject to said license tax, shall pay on each; and no license tax shall extend to more than one establishment or include more than one occupation, avocation, business or calling.

Sec. 93. The license tax shall be collected by the Assessor and Collector or his deputies, and shall be paid to such officer by each and every person or firm owing such license, and before engaging in any trade, profession, calling, business or avocation subject to such tax; that if any person shall engage in any business, calling, avocation or occupation, which, by an ordinance of said city, is subject to a license tax, without having first obtained said license, he, she or they shall, on conviction before the Mayor or Recorder, be liable to a fine of not more than one hundred dollars, or less than five, together with all costs of suit, for each day that said violation may continue; and this section shall apply to all persons owing any license tax, and failing to pay the same; provided, that any person paying such tax, after complaint, shall be released from any fine, but not the costs of prosecutions; that said taxes, known as license or occupation taxes, shall not be construed to be a tax on property in the the meaning of any section of this act; and provided, that the City Council may have the right to bring suit in any court of competent jurisdiction for any such tax.

Sec. 94. That the City Council may provide by ordinance for the exemption from taxation, such property as they may deem just and proper; provided, nothing contained herein shall be construed to prevent the City Council from imposing, levying and collecting special taxes and assessments, for the improvement of the avenues, streets and alleys, as hereinafter provided.

Sec. 95. The City Council may, by ordinance, provide for the payment of any existing and outstanding indebtedness, and for the payment of any bonds that may, from time to time, be issued; and shall, for such purposes have the power to levy, assess and collect a special tax.

Sec. 96. The fiscal year of the city of Dallas shall end at 12 o'clock noon, on the third Monday of April, of each year. The fiscal year beginning on the third Monday in April, 1877, shall be known and denominated as the fiscal year 1877, and all succeeding fiscal years shall be known and denominated by the name of the calendar year in which such fiscal year begins.

Sec. 97. The Assessor and Collector shall have charge of, and keep secure in his office, all maps, plats, books, papers, records and other property that may be provided in the assessment and collection of taxes, and he and his sureties shall be liable on his official bond, for the preservation of the same, and the delivery thereof to his successor in office.

Sec. 98. The Assessor and Collector may, by an instrument in writing, under his hand, appoint one or more deputies, who shall have and exercise, under his supervision, all the duties of Assessor and Collector, and be removed at his pleasure. The Assessor and Collector, and his securities, shall be responsible on his official bond for all acts and omissions of his deputies, in the same manner as for his own acts and omissions. The Assessor and Collector, and his deputies, shall have the power to administer all necessary oaths.

Sec. 99. All persons holding or owning personal property or real estate on the first of January of any fiscal year, shall be liable for all municipal taxes levied thereon for that year.

Sec. 100. The Assessor and Collector shall, at least ten days before the first day of January, each year, give public notice, by hand-bills circulated through the city, and by advertisement in some paper, that all persons owning, or having in their possession, as agent of another, any personal property or real estate subject to municipal taxation, are required to render the same on or before the first day of February ensuing. All persons owning any such property, or having it under control, shall render a list of the same to the Assessor and Collector, together with its cash value, and shall be required to make affidavit to the truth and correctness of the same. Any one failing to render said property by February first of any year for which it is to be assessed, shall be liable to a fine not exceeding fifty dollars and costs. All merchants doing business in the city are required, within the same time, to furnish to the Assessor and Collector, at his office, a true statement, verified by affidavit of such merchant or his agent, of the highest amount in value of all goods, wares and merchandise owned and kept on hand for sale by such merchant on the first day of January. Any merchant failing to comply with this requirement shall be liable to fine as above provided.

Sec. 101. It shall be the duty of the Assessor and Collector, between the first day of January and the fifth day of April of each year, to make and return to the Council a full and complete assessment of all property, real and personal, in said city, on the first day of January, liable to municipal taxation, together with the cash value of all goods, wares and merchandise owned or kept on hand for sale by any merchant on the first day of January of that year, together with the cash value of all property, real and personal, belonging to any corporation; also, a list of all insurance companies doing business in said city, and the name of the agent of the same, together with the amount of premium received by each, verified by affidavit of the agent of such company.

Sec. 102. On and after the first day of January, the Assessor and Collector shall attend at his office and keep the same open by himself or his deputies on every week day up to, and including the — day of April, of that year, from the hour of eight in the forenoon to twelve o'clock noon, and from two until five o'clock in the afternoon, for the purpose of receiving the lists of property and the statements of merchants and others by this act required to be delivered to him, and shall at all times keep on hand and furnish to persons lawfully requiring the same, all necessary blank forms.

Sec. 103. It shall be the duty of the Assessor and Collector to make complaints against all persons failing to comply with the requirements of this act, and upon conviction before the Mayor or Recorder, such parties shall be fined in any sum not exceeding one hundred dollars.

When any person shall refuse to render his or her property, as herein required, he, she or they shall forfeit to the city the sum of fifty dollars, to be recovered by the city in a suit before any court of competent jurisdiction, and the Assessor and Collector shall assess such person or persons according to the best information he can get.

Sec. 104. The property of all corporations and companies, excepting incorporated banks, shall be assessed and taxed as the property of individuals is assessed and taxed. All shares of stock of incorporated banks, whether organized under the laws of this State or the United States, shall be assessed at the actual cash value. The President, cashier or other chief officer of any such bank, shall each year, in the time prescribed herein for listing property under oath, deliver to the Assessor and Collector a statement, verified by affidavit, of the cash value of all stock held therein, together with names of persons owning or holding the same on the first day of January of that year, together with the value of all property owned by such bank, both real and personal; such stock shall be taxed at its actual cash value to the owners thereof, as other personal property is taxed. The taxes assessed on such shares and other property of the bank shall be paid by the corporations, respectively, as agent of its shareholders, and shall be a lien on such shares, and such other property, from the first day of January of the fiscal year, ending the following April, until such tax is paid. If any President, or other chief officer, of any such bank fail to comply with the provisions of this section, he shall forfeit to the city the sum of five hundred dollars, to be recovered by the city as plaintiff in a suit in any court of competent jurisdiction, and be liable to a fine, as hereinbefore provided for, in case of failure of individuals to render property. The amount so assessed as taxes shall be deducted by such chief officer rendering the same from the dividends of the respective stockholders in proportion to the stock owned by each.

Sec. 105. If the Assessor and Collector shall discover any real or personal property which was subject to taxation for any previous year, and which, from any cause, escaped taxation for that year, it shall be his duty, in addition to the assessment for the then ensuing year, to assess such property for the year or years in which the same was not assessed.

Sec. 106. Upon the completion of his assessment, and on or before the fifth day of April of each year, the Assessor and Collector shall endorse upon his assessment rolls his certificate, verified by his affidavit, that he has made diligent effort to ascertain all taxable property, and all persons liable to poll-tax, for the fiscal year, and so far as he has been able to ascertain, the same is correctly set forth in the rolls. He shall then present the rolls to the City Council, by delivering the same to the City Secretary at his office.

Sec. 107. Where the Assessor and Collector and the party owning or rendering the property, shall disagree as to the value of property, it shall be left to a Board of Appeals to decide the value, and such decision shall be final; the said Board of Appeals to be constituted and composed of three disinterested freeholders, appointed by the Mayor, who shall be appointed in January of each year, and hold office for two years, unless sooner removed by the Mayor, or some other cause. A majority of the members shall constitute a quorum for the transaction of business. Said Board shall meet to hear appeals from parties aggrieved, on the first Monday in March, and shall hold

session until all appeals have been heard; and for their services shall receive such compensation as the City Council may direct.

Sec. 108. The City Assessor and Collector shall cause to be published in some newspaper published in the city, a notice of the time and place of sitting of the Board of Appeals, at least five days before such sitting. The City Secretary shall attend in person, or by Clerk, upon the sessions of such Board and act as its Clerk. The Board shall have the right to diminish or increase the valuation of any property, so as to correspond with the valuation of other property of like value, and shall order in any error in assessment to be changed and corrected; and the Assessor and Collector shall make such corrections as are required by the Board. The members of the Board shall be sworn to discharge their duties faithfully and impartially, and any one aggrieved by error in assessment may complain to the Board in writing.

Sec. 109. At the first meeting of the Council in April of each fiscal year, they shall examine the assessment rolls and levy a tax for such fiscal year; provided, they may levy other taxes, from time to time, not inconsistent with the provisions of this act.

Sec. 110. A lien is hereby created on all personal property and real estate in favor of the city of Dallas, for all taxes assessed and levied for any fiscal year, the said lien to exist from the first day of January of each year until the taxes shall have been paid, the said lien to be enforced as hereinafter provided for.

Sec. 111. There shall be made out and preserved assessment rolls for each year, showing the assessments made, the amount of taxes levied and collected for each, and the rolls shall be a record for all purposes and a notice to all persons whomsoever of delinquent taxes and liens for taxes.

Sec. 112. Any agent, representing any insurance company which has not paid the tax required by ordinance, shall be liable to a fine of not less than five dollars or more than one hundred dollars, and each day that he represents such company shall constitute a separate offense.

Sec. 113. The City Council are herein empowered to pass all ordinances necessary for the levying and proper assessment of taxes which do not conflict with the provisions of this charter.

Sec. 114. It shall be the duty of the Assessor and Collector to make out a list of all personal property and real estate which has not been given in for assessment according to the provisions of this act, and assess the same in the name of the owner, if he or she be known; if not, then it shall be assessed by description as unknown owner, and the valuation of the Assessor and Collector on such property shall be subject to the approval of the Board of Appeals, and in all cases where complaint is not made to the Board as provided herein. Whenever the Assessor and Collector shall discover that any property, real or personal, has not been assessed for the past year or years, he shall assess the same for the taxes due in those years.

CHAPTER VII—COLLECTION OF TAXES.

Sec. 115. That the City Council may and shall have full power to provide by ordinance for the prompt collection of all taxes assessed, levied and imposed, and to that end are hereby authorized and empowered to sell, or cause to be sold all personal and real property for taxes due, and shall make all rules and regulations necessary for the collection of taxes not conflicting with the provisions herein contained.

Sec. 116. The Assessor and Collector, after the completion of the assessment roll, shall proceed as speedily as possible to collect all taxes due, and shall, by notice published in some newspaper for five days previous to April 15, notify all persons to come up and pay all taxes due.

Sec. 117. No demand of taxes shall be necessary; but it is hereby made the duty of every person, or corporation, subject to taxation to attend at the office of the City Assessor and Collector, at some time between April 15 and September 1, in each year, and pay his or her taxes; and if any one fails to pay them before the first day of September following the levy of the tax, the same shall be delinquent and bear interest at the rate of ten per cent. per annum thereafter.

Sec. 118. The Assessor and Collector shall, at least ten days before the first day of September of each year, give notice by circulars posted throughout the city, and by advertisements in some newspaper, that he will, on and after September first, proceed to seize upon and sell property for satisfaction of taxes not paid.

Sec. 119. All taxes that shall remain unpaid on the first day of September on personal property, it is hereby made the duty of the Assessor and Collector to make the same, by sale of personal property sufficient to satisfy such taxes due, and costs; and he shall by virtue of his rolls, seize upon and sell such property. When the Assessor and Collector distress or seize upon such property, he shall keep the same at the expense of the owner, and shall give notice of the time and place of sale of same, within five days after the taking, by posting a notice at the court-house door, in the city of Dallas; the said notice of sale shall be given at least ten days before day of sale. He shall sell the same to the highest cash bidder, and shall make an entry in a book to be kept for that purpose, denominated the book of sales, of the amount for which said property was sold.

Sec. 120. The Assessor and Collector shall receive taxes on parts of any lot, piece or parcel of real property, charged with taxes; provided, the person paying such tax shall furnish a particular specification of the part; and if the tax on the remainder of such lot, piece or parcel remains unpaid, an entry shall be made by the Assessor and Collector, clearly showing the part on which such tax remains unpaid.

Sec. 121. It is hereby made the duty of the Assessor and Collector, and his deputies, as soon as the tax on personal property becomes delinquent, to proceed to collect the same by distress and sale, in the manner prescribed in the preceding section. The Assessor and Collector shall, as additional compensation for his services and expenses, receive an amount equal to five per cent. of the amount of delinquent taxes, which percentage he shall collect from each delinquent as costs, together with the whole amount of delinquent taxes, interest and costs. In case he shall have to make the delinquent tax by distress and sale, in addition to the above amount he shall receive the same amount to which Sheriffs are entitled on a sale under execution; provided, that when any Assessor and Collector shall collect any taxes which became delinquent during the term of office of his predecessor, he shall receive a sum equal to ten per cent. of the amount collected, to be taxed as costs against the delinquent.

Sec. 122. If any one against whom a personal tax is assessed, and which is due and unpaid, whether the same be delinquent or not, shall have removed out of the city, or shall be about to remove out of the

city, or shall have removed or be about to remove his personal property out of the city, it shall be the duty of the Assessor and Collector to proceed at once to collect such personal tax by distress and sale of any personal property of such person to be found in the city of Dallas, as provided in case of delinquent taxes, and shall receive the same compensation.

Sec. 123. If any tax, interest or costs shall remain unpaid on the first day of September of any year, on any share or shares in any corporation taxable under this act or any ordinance of the city of Dallas, it shall be the duty of the Assessor and Collector to sell such share or shares at public sale, giving the names of the parties holding such shares assessed. Any person purchasing such share or shares shall be the absolute owner thereof in law and equity, and shall be entitled to be entered upon the books of the corporation as such. Nothing in this section shall be construed so as to prevent a suit in the name of the city, before any court of competent jurisdiction, against the corporation for any tax due on such shares of stock.

Sec. 124. It is hereby made the duty of the City Assessor and Collector, on the first Monday in November of each year, to present to the Secretary a full and complete list of all delinquent and unpaid taxes on personal property, giving the names of all such delinquents. The lists shall be made out alphabetically, and shall be verified by the affidavit of the Assessor and Collector, and in his affidavit he shall certify that he knows of no property out of which such tax can be made. Such list shall be submitted by the Secretary to the City Council, and after examination by them shall, if they deem it proper, be returned over to the City Attorney, who shall bring suit for such taxes, and receive therefor, as a fee, such proportion of the amount collected, as the City Council shall decree.

Sec. 125. On the first day of September in each year, all tax on real and personal property due and unpaid, shall become delinquent, and bear interest from that date at the rate of ten per cent. per annum; and taxes due on real property are hereby made a perpetual lien on such property against all persons. The Assessor and Collector is hereby authorized and directed to collect the delinquent taxes by sale of the real property on which said taxes are levied. The Assessor and Collector shall continue to receive taxes after they become delinquent, but in such cases shall require the costs as hereinbefore provided for.

Sec. 126. On the first Monday in November of each year, the Assessor and Collector shall offer at public sale, at the court-house door, in the city of Dallas, all real estate on which taxes or special assessments shall remain due and unpaid, and such sale shall be made to realize all taxes due on such land, and all interest and cost of sale.

Sec. 127. Before such sale, notice of the time and place of sale, together with, as near as may be, a description of the property, shall be given by posting two notices, one at the court-house and the other at the city hall, in the city of Dallas; also, by publication in some newspaper of the city, which notice shall contain a statement of the amount due on each particular piece of ground.

Sec. 128. The Assessor and Collector shall, on the day of sale, begin at ten o'clock in the morning, and continue to offer for sale until five o'clock in the afternoon, each tract or parcel of real property separately, on which the tax, interest, costs of suit and special assessment shall be

due; and he shall continue the sale from day to day, within the hours above prescribed, until the taxes are all paid, or the land all sold.

Sec. 129. The person who offers to pay the amount of taxes, special assessment, interest and costs, due on any tract or parcel of real property, for the smallest portion of the same, shall be deemed the purchaser. Upon the payment of all taxes, special assessments and costs, the purchaser shall be entitled to a deed as hereinafter provided for; but if such purchasers fails to pay such taxes and costs, then the property shall be put up and sold again, as if there had been no sale. The person who offers to pay the taxes shall, at the time, state his bid, and designate the number of feet and the portion of the lot from which it is to be taken.

Sec. 130. If no person bids for a less quantity than the whole of a lot or parcel of real property, the City Assessor and Collector shall sell the lot or piece of real property to any person who will take the whole of such tract or lot, and pay the taxes, special assessment and costs due.

Sec. 131. The City Assessor and Collector shall keep a book to be denominated, "The Book of Sales," and in this he shall enter a memorandum of all the sales, to whom made, and for how much, and a description of the property.

Sec. 132. It shall be the duty of the Mayor to attend all sales of real property for taxes, and when such property is not bid in by other parties, he shall buy the same for and on account of the city, and shall require a deed to be made to the city for all such property; provided, he shall not purchase any such property at a greater price than the taxes, special assessments, interests and costs due.

Sec. 133. If from neglect of the officers, or from any other cause, real property is not duly advertised and sold on the first Monday in November, then the City Assessor and Collector shall sell the same on the first Monday in December, or on the first Monday in any month thereafter, given[ing] notice as provided in this act; provided, the said city tax may be assessed and collected in the manner as the State tax, and the same remedies may be used to enforce its collection that are or may be provided by law to enforce the collection of the State tax.

Sec. 134. The City Assessor and Collector shall make out and deliver to any purchaser of real estate for taxes, or deed to such piece, parcel or lot; and in such deed shall state the consideration and give as accurate a description as he can of such property; said deed shall by him be duly acknowledged and signed in his official capacity, and shall show on the face that it is a tax deed, and in said deed the city of Dallas shall be grantor.

Sec. 135. Any person desiring to redeem any real property, bid off for the city for delinquent taxes, at any tax sale, may redeem the same by payment to the City Assessor and Collector, of all taxes, interest and cost due upon the same, and then shall receive a deed to such property.

Sec. 136. Real property sold under the provisions of this act, or any interest in such real property, if purchased by any individual or corporation, other than the city of Dallas, may be redeemed by the owner, his agent or attorney, at any time within two years from day of sale, upon such owner, his agent or attorney complying with the following requirements: Such owner, agent or attorney, shall, before recovery of the real property so sold can be had, pay to the holder of the tax deed, double the amount of all taxes, costs and special assessments, for

which such property was sold, and all taxes paid after purchase by the holder of the tax deed, together with interest on the same at the rate of ten per cent. per annum.

Sec. 137. If any real property sold for taxes under the provisions of this act, shall not be redeemed within two years from the day of sale, the holder of the tax deed shall have a right to bring a suit in the District Court of the county of Dallas to have the absolute title to such real estate, without any equity of redemption, vested in him; provided, that all minors, lunatics and married women may have one year after the removal of their disabilities to redeem the same in, if their property.

Sec. 138. The Assessor and Collector shall, when any real estate has been sold for taxes, make and execute a deed to the purchasers, as hereinbefore provided for, and such deed shall be prima facie evidence of the following facts:

First—That the lot or lots conveyed therein was subject to taxation and assessments at time of such sale, and was assessed in the manner required by law.

Second—That the taxes were not paid at any time before sale.

Third—That the land had not been redeemed at time of sale, and that a lien was at that time in existence for taxes due the city.

And such deed shall be conclusive evidence of the following facts:

First—That the real estate therein conveyed was advertised for sale in the manner and for the length of time required by law.

Second—That the property was sold for taxes, as stated in the deed.

Third—That the grantee in the deed was the purchaser.

Sec. 139. A delivery of personal property to the purchaser, at tax sale for delinquent taxes, shall convey with it an absolute title, and the party owning such property so sold for delinquent taxes shall have no right to redeem the same, but all the right, title and interest of such owner shall pass to the purchaser.

Sec. 140. The provisions herein shall not be so construed to prevent the city from filing a suit in any court of competent jurisdiction for the collection of taxes due on real estate, as well as personal property, and for the enforcement of levies for such taxes.

Sec. 141. The terms, real property, real estate and land, when used in this act, and all terms signifying real estate, shall be construed to mean not only land itself, but also all fixtures, improvements, privileges and rights to the same pertaining. The word tax or taxes, where used in this act, or in any deed or paper executed under this act, shall be held to mean all taxes, general or special, and all assessments as the sense may seem to require. The words, he, his or him when relating to females, shall be construed to mean, she, her's or her. The term personal property shall signify in this act all property not real.

CHAPTER VII—FIRE DEPARTMENT.

Sec. 142. The City Council, for the purpose of guarding against the calamities of fire, may prohibit the erection, building, placing, removing or repairing of wooden buildings, within said city, as they may designate and prescribe; and may also, within said limits, prohibit the moving or putting up of any wooden building from without said limits; and may also prohibit the removal of any wooden building from one place to another within said limits, and may direct, require and prescribe that all buildings within the limits so designated and prescribed as aforesaid, shall be made or constructed of fire proof materials; and

to prohibit the building or repairing of wooden buildings within the fire limits, when the same shall have been damaged to the extent of thirty-three and one-third per cent. of the value thereof; and may prescribe the manner of ascertaining such damages; may declare all dilapidated buildings to be nuisances and direct the same to be removed, repaired or abated in such manner as they shall prescribe and direct; to declare all wooden buildings in the fire limits, which they deem dangerous to contiguous buildings, or in causing or promoting fires, to be nuisances, and require and cause the same to be removed in such manner as they shall prescribe.

Sec. 143. The City Council shall have power to prevent and prohibit the dangerous condition of chimneys, flues, fireplaces, stove pipes, ovens, or any other apparatus used in or about any building or manufactory, and cause the same to be removed or placed in a secure or safe condition, when considered dangerous.

Sec. 144. To prevent the deposit of ashes in places where they would be liable to produce fire, or in any wooden box or barrel, or within any wooden building; and to appoint one or more officers to enter into all buildings and enclosures, to examine and discover whether the same are in a dangerous state, and to cause such as may be dangerous, to be put in a safe condition.

Sec. 145. To require the inhabitants to keep and provide as many fire buckets and ladders, or other means to reach the roof, as they shall prescribe, and to regulate the use thereof in times of fire.

Sec. 146. To regulate and prevent the carrying on of manufactories and works dangerous in promoting and causing fires; regulate the building and erection of cotton presses and sheds.

Sec. 147. To regulate, prevent and prohibit the use of fire-works and fire-arms.

Sec. 148. To direct, control and prohibit the keeping and management of houses or any building for the storing of gunpowder and other combustible, explosive or dangerous materials within the city; to regulate the keeping and conveying of the same, and the use of candles and other lights in stables and other like houses.

Sec. 149. To regulate and prescribe the manner, and to order the building of parapet and parti-walls and partition fences.

Sec. 150. To compel the owners or occupants of houses or other buildings to have scuttles in their roofs, and stairs or ladders leading to the same.

Sec. 151. To authorize the Mayor, officers of fire companies, or any officer of said city, to keep away from the vicinity of any fire, all idle, disorderly or suspicious persons, and arrest and imprison the same, and compel all officers of the city and all other persons, to aid in the extinguishment of fires, and in the preservation of property exposed to danger thereat, and in the preventing of goods from being stolen.

Sec. 152. And generally to establish such regulations for the prevention and extinguishment of fires as the City Council may deem expedient.

Sec. 153. The City Council shall procure fire engines and other apparatus for extinguishment of fires, and have control thereof, and provide engine-houses for keeping and preserving the same; and shall have power to organize fire, hook and ladder, hose and axe companies, and a fire brigade; and the company so organized, with such assistant engineers as may be provided for, and the chief engineer, shall consti-

tute the fire department of the city. Each company shall have the right to elect its own members and officers, said officers to be subject to approval by the Board of Aldermen. The engineer shall be chosen in such manner as said department may determine, subject to the approval of the City Council, who shall define the duties of said officers, and pass such ordinances as they may deem proper for the interest and welfare of said department, and to contribute to the efficiency thereof. All officers so elected and approved shall be commissioned by the Mayor and the said companies, officers and members shall observe and be governed by the ordinances of said city relating to fire departments. Said company shall have power to adopt their own constitution and by-laws, not inconsistent with the provisions of this act and the ordinances of said city, and said department shall take the care and management of the engines and other implements and apparatus, provided and used for the extinguishment of fires; and their powers and duties shall be prescribed and defined by the City Council; provided, that nothing herein contained shall prevent the Board of Aldermen from disbanding any or all of the fire, hook and ladder, hose and axe companies, and substituting therefor, either in whole or part, a fire department of which the officers and men shall be appointed by the City Council and paid by the city.

Sec. 154. When any building in the city is on fire it shall be lawful for the Chief or Acting Chief Engineer to direct such building or any other buildings which he may deem hazardous and like to take fire and communicate to other buildings, to be torn down, or blown up, or destroyed. And no action shall be maintained against any person or against the city therefor; but any person interested in any such building so destroyed or injured, may, within three months, and not thereafter, apply in writing to the City Council to assess and pay the damages he has sustained; and if the City Council and the claimant cannot agree on the terms of adjustment, then the application of such claimant shall be referred to three Commissioners, one to be appointed by the claimant, one by the City Council, and the third by both. They shall be sworn faithfully to execute their duty according to the best of their ability; shall have power to subpoena and swear witnesses, and shall give all parties a fair and impartial hearing, and give notice of time and place of meeting. Said Commissioners shall be qualified voters and owners of real estate in the city; shall take into account the probabilities whether the said building would have been destroyed or injured by fire, if it had not been so pulled down, destroyed, and shall report the amount of damages to be allowed, or may report that no damage should equitably be allowed to such claimant. Whenever a report shall be made, and finally confirmed for the appraising said damages, a compliance with the terms thereof by the City Council shall be deemed a full satisfaction of said damage.

Sec. 155. Every person actively serving as a fireman, or who shall have so served as a fireman in the city for a continuous term of seven years, shall be exempt from all military duty, except in cases of insurrection or invasion. A certificate of the Mayor, under the city seal, shall be evidence of such exemption. The Engineer, and Assistant Engineer, and members of hook and ladder, hose and axe companies and fire brigade shall be deemed firemen of this city within the meaning of this section.

CHAPTER VIII—OF SANITARY REGULATIONS.

Sec. 156. The City Council may appoint a Health Physician, and as many Health Inspectors as they may deem necessary, and shall prescribe, by ordinance, the powers and duties and compensation of the same.

Sec. 157. The City Council shall have power to take such measures as they may deem effectual to prevent the entrance of any pestilence, contagious or infectious diseases into the city; to stop, detain and examine, for that purpose, any person coming from any place infected or believed to be infected with that disease; to establish, maintain and regulate pest-houses or hospitals at some place within the city, or not exceeding five miles beyond its bounds; to cause any person who shall be suspected of being infected with any such disease to be sent to such pest-house or hospital; to remove from the city or destroy any furniture, wearing apparel or property of any kind which shall be suspected of being tainted or infected with pestilence, or which shall be likely to pass into such a state as to generate or propagate diseases; to abate all nuisances of every description which are or may become injurious to the public health in any manner that they may deem expedient; and from time to time do all acts, make all regulations and pass all ordinances which they shall deem expedient for the preservation of health and the suppression of disease in the city.

Sec. 158. The owners, drivers, conductor or person in charge of any stage, railroad car or public conveyance, which shall enter the city, having on board any person sick of a malignant fever, or pestilential, contagious or infectious disease, unless such person became sick on the way and could not be left, shall be deemed guilty of a misdemeanor, punishable with fine and imprisonment, or either; such owner, driver, conductor or person in charge, shall, within three hours after the arrival of such sick person, report in writing the facts, with the name of such person and the house where he was put down in the city, to the Health Physician; and every neglect to comply with the provisions shall be a misdemeanor, punishable by fine and imprisonment, or either.

Sec. 159. Any person who shall bring or cause to be brought into the city, any person or property of any kind, tainted or infected with malignant fever, or pestilential or infectious disease, shall be guilty of a misdemeanor, and punishable by fine and imprisonment, or either.

Sec. 160. Every keeper of any inn, hotel, tavern, boarding or lodging house in the city, in which any inmate thereof shall be sick with small-pox, varioloid, yellow fever or other infectious or pestilential diseases, shall, upon such fact coming to his knowledge, forthwith report the same to the Health Officer. Every physician in the city shall report under his hand, to the officer above named, the name, residence and disease of every patient whom he shall have sick of any infectious or pestilential disease, within six hours after he shall have visited such patient. A violation of either of the provisions of this section, or any part of either of them, shall be a misdemeanor, punishable by fine and imprisonment, or either.

Sec. 161. The City Council shall have power to require the filling up, draining and regulating of any lot or lots, grounds or yards, or any other places in the city, which shall be unwholesome or have stagnant water therein, or from any other cause, be in such condition as to be

liable to produce disease; also to cause all premises to be inspected, and to impose fines on the owners of houses under which stagnant water may be found, and to pass such ordinances as they shall deem necessary for the purpose aforesaid, and for the making, filling up, altering or repairing of all sinks and privies, and directing the mode and material for constructing them in future; and for cleaning and disinfecting the same, and for cleaning of any house, building, establishment, lot, yard or ground, from filth, carrion or impure or unwholesome matter of any kind, and to punish any owner or occupant violating the provisions of any ordinance so passed as aforesaid; and the City Council shall, also, in addition to the foregoing remedy, have the power to cause any of the improvements above mentioned to be done at the expense of the city, on account of the owners, and cause expenses to be assessed on the real estate, or lot or lots benefitted thereby; and on filing with the District Clerk of the county in which the city is situated, a statement by the Mayor of such expenses, shall have a first and privileged lien on such property to secure such expenditure, and twelve per cent. interest thereon. For any such expenditures and interest as aforesaid, suit may be instituted and recovery had in the name of the corporation, in any court having jurisdiction, and the statement so made as aforesaid, or a certified copy thereof, shall be full proof and satisfactory evidence of the amount expended in any such improvement.

Sec. 162. The Health Physician may be authorized by the City Council, when the public interest requires, to exercise, for the time being, such of the powers, and perform such of the duties of the Chief of Police, as the City Council may in their discretion direct, and authorize to enter all houses and other places, private or public, at all times, in the discharge of his duties under this act, having first asked permission of the owners or occupants. The City Council shall have power to punish by fine and imprisonment, or either, any neglect or refusal to observe the orders and regulations of the Health Physicians.

CHAPTER IX—OF OPENING STREETS AND THE CONDEMNATION OF PRIVATE PROPERTY FOR PUBLIC USE.

Sec. 163. Whenever the City Council shall by ordinance provide for establishing, opening, widening, extending or altering any street, avenue, alley, market place or public square, or route for sewer, either on their own motion, or a petition by the majority of the owners of the ground fronting thereon, and it becomes necessary for that purpose to take private property, just compensation to be paid for the same to the owner or owners of such property; and the Mayor shall cause the value of such property, so taken, to be ascertained and assessed by a Board of Appraisement, to be composed of three disinterested freeholders, to be appointed by the Mayor; the said Board shall have the power to issue and enforce the execution of all necessary process, and shall be presided over by the Mayor, who shall pass upon the competency of witnesses, and instruct the Board on all questions of law arising.

Sec. 164. Whenever any ordinance provides for the taking of private property, as authorized in the preceding section, it shall be the duty of the City Engineer, forthwith, to make and deliver to the Mayor a statement, by plat, map or otherwise, containing a correct description of the several lots or parcels of private property to be taken, together with the probable value of the same; and, also, a statement of what property, if any, will be injured by such improvement, and how much; he shall also furnish the

names of all those having any interest in the same, and the extent of their interest, and the names of all the owners of property who will be benefited directly by such improvement. The Mayor shall thereupon appoint a day and place for the meeting of the Board of Appraisement, to ascertain the value of the property to be used; and all persons whose property is to be so used shall be notified by the City Secretary of the time and place of the meeting of such Board, the said notice to be left at the residence of the party or at his place of business, or if he be absent from the city, with his agent or attorney; if personal notice cannot be conveniently had, it shall be sufficient to bring in the owners of the property at the time of the passage of the ordinance for making such improvements, and all parties shall be deemed to have had notice of such ordinance who acquire an interest after its passage in the property to be used.

Sec. 165. The City Council shall determine how much each of the surrounding property-holders are benefited by such improvement, and shall levy a special tax on each, in proportion to the amount of benefit received, which tax shall be used in paying for the property condemned for public use; provided, that when the right of way for any of the above contemplated improvements is granted to the city without costs, no special tax shall be levied on those benefitted, but the city shall open or otherwise establish the same at the general expense.

Sec. 166. A majority of the Board of Appraisement shall determine all questions brought before it, and by their Secretary, who shall be the City Secretary, make a written report to the Council, signed by each member of the Board, upon which report the City Council must take action within sixty days thereafter. If the City Council confirms the report of the Board, an appropriation shall be made to pay the owners of such property.

Sec. 167. An assessment shall be made on all property which will be directly benefited by such improvements, and the City Council shall make a levy on such property, a special tax; such tax shall be a lien, and the property shall be advertised and sold, as is hereinbefore provided in cases of delinquent taxes, and the Assessor and Collector shall execute a deed as in other cases for lands sold for taxes; provided, the owners of property so taxed shall have three months in which to pay one-half of such tax, and six months in which to pay the balance, and shall have a deduction of ten per cent. on the whole amount if paid within three months. If the said special tax be not paid in full at the expiration of six months, the Assessor and Collector shall at once proceed to advertise and sell, and the deed shall be as valid as any other tax deed, and subject to the same conditions, and executed in the same manner.

Sec. 168. It shall not be lawful for any person or persons to make or file any plat or map of land as an addition to the city of Dallas, without first submitting the said plat to the City Council for approval, and a certificate of such approval shall be endorsed thereon by the City Secretary. Any person who shall record or cause to be recorded any such plat before approved by the City Council, shall upon conviction be fined in any sum not exceeding one hundred dollars.

Sec. 169. Whenever the property owners, and a committee appointed by the Council, can agree upon the compensation, it shall not be necessary to refer the matter to a Board of Appraisers, but such agreement shall be submitted to the Council for its approval.

Sec. 170. Whenever the City Council shall pass an ordinance for any of the above contemplated improvements to be made, they shall state in such ordinance whether the private property condemned for public use shall be paid for out of the general fund or by special assessment as hereinbefore provided for; provided, that the City Council shall have the power to say how much, if any, the city shall pay toward such improvements and how much property owners benefited shall pay therefor.

Sec. 171. The city shall not be entitled to the possession of any lot or parcel of property taken until compensation be paid therefor, or tendered in the amount as determined by the Board of Appraisement, but if the title to such property be in controversy, nothing shall be paid until the controversy is settled by some court of competent jurisdiction or satisfactorily by agreement with all claimants; provided, that money may be paid into court to abide the result of the suit, and the city, in the meantime, take possession of and condemn said property, as hereinbefore provided for.

CHAPTER X—WATERWORKS, GASWORKS AND LOCATION OF STREETS.

Sec. 172. The City Council of the city of Dallas shall have power to establish a general plan for the location and gradation of streets, alleys and public highways in the city of Dallas; and in all sub-divisions of property hereafter to be made by the respective owners, they shall be required to conform their streets, alleys and public highways to said general plan; and it shall be the express duty of the Mayor to see that all ordinances to enforce this power be duly executed.

Sec. 173. The Common Council shall have the exclusive right to erect, maintain and operate waterworks and gasworks in the limits of the city, and to regulate the same; to prescribe the rates at which the water and gas shall be charged to the inhabitants of said city, when taken from said works, and acquire by purchase, donation or condemnation, suitable grounds on which to erect such works, and all necessary rights of way; provided, the City Council may, in their discretion, grant such rights to individuals, subject to such conditions as may be provided by ordinance.

CHAPTER XI—OF GRADING, MACADAMIZING, PAVING STREETS, SIDEWALKS AND ALLEYS.

Sec. 174. The City Council shall have power to cause to be graded, constructed, reconstructed, paved or otherwise improved and repaired, all streets, sidewalks, alleys and public highways, or parts thereof, in the city limits, at such time, and to such extent, and of such dimensions, and with such materials and under such regulations as may be provided by ordinance; provided, that the owners of property bordering thereon shall pay the entire cost of all sidewalks constructed or repaired; and provided, that the city shall pay one-third of all the expense of grading and macadamizing any street or alley, and the property holders owning property on either side of said street or alley, the other two-thirds of the expense; provided, however, that no street, alley, avenue or highway shall be graded and macadamized at the expense of the property-holders unless with the consent of a majority of the owners of property fronting on either side of such street or avenue.

Sec. 175. The cost of all work on any sidewalk, including curbing and guttering along side thereof, shall be entirely at the expense of the

lot or lots fronting thereon, in proportion to the number of feet frontage, and shall be charged as a special tax thereon, in the manner hereinafter provided for. Whenever the City Council shall, by their own motion or on petition of a majority of the owners of the property fronting on such purposed sidewalk, resolve to construct one, they shall cause the City Engineer to make an estimate of the cost of such sidewalk, per square foot, and to give the amount, pro rata, which each property owner should pay, giving his or her name. The City Council shall provide by ordinance for the construction of such sidewalk, determining its width, dimensions and the material out of which it shall be constructed. The City Council shall notify the property owners through the City Secretary, that such a sidewalk has been determined upon, and give such owners the right of having such work done themselves, under the superintendence of the City Engineer. If a majority of the property-holders have such work done, the others shall be liable for their proportion of the expense, and a special tax shall be levied for that amount. If the city has to have such work done, the entire cost of it shall be levied as a special tax on the property, in proportion to its frontage on such sidewalk, and such tax shall be a lien on such property, and in case the same is not paid at the time provided by ordinance for its collection, the Assessor and Collector shall advertise and sell as in other cases for taxes on real estate.

Sec. 176. In all cases where the City Council may deem it necessary, and in all cases where the majority of the owners along any street, avenue or alley, shall petition to have the same graded or macadamized, the City Council shall have the work done as soon as practicable. The city is to pay one-third of all the expense of such grading or macadamizing, and the owners of property on either side two-thirds, and when it shall be determined by the City Council to have such work done, the Engineer shall make an immediate report of the probable cost of such work, and at the same time give the names of those owning property on either side of the street, and the number of front feet of each party. The City Council shall levy a special tax on all such property to pay the two-thirds of cost for which it shall be liable, and such tax, when levied, shall be a lien; and if such special assessment be not paid within the time prescribed by the ordinance, directing such improvements, then the Assessor and Collector shall proceed to advertise and sell, as in other cases; provided, the cost of repairing and keeping in repair the paving and macadamizing of all streets shall be paid out of the general revenue of the city.

Sec. 177. It shall be the duty of every one owning property to keep in repair the sidewalks running along such property, and whenever any one, when directed by the City Engineer, fails or refuses to repair that portion of the sidewalk fronting on his or her property, the same shall be done by the city, at the expense of such property-holder, and assessed specially. Any one failing to repair or keep in repair, the sidewalk, curbing or guttering in front of his premises, shall also be deemed guilty of a misdemeanor and fined in any sum not over fifty dollars and costs.

Sec. 178. Contracts for street improvements shall be let to the lowest responsible bidder, and of such contractor the City Council shall require such bond as they may deem proper.

Sec. 179. The City Council are hereby empowered to enact all ordinances necessary for the enforcement of all the provisions of this

chapter, and to levy all special taxes necessary to pay for such improvements.

CHAPTER XII—ON SEWERS.

Sec. 180. The City Council shall have power to cause a general sewer system to be established, which shall consist of public and private sewers. Public sewers shall be established along the principal courses of drainage at such times, to such extent and under such regulations as may be provided by ordinance. There shall be, if necessary, levied a special tax for the construction of public sewers, and there shall, whenever necessary, be a condemnation of private property as hereinbefore provided for. No public sewer shall be constructed through private property when public property can be conveniently used, nor shall it, when avoidable, be run diagonally through any one's land.

Sec. 181. Private sewers, connecting with public sewers, may be constructed under such restrictions and regulations as may be provided by ordinance; but the city shall be at no expense in the construction of the same, and may, by ordinance, force the keeping of the same clean and in proper repair by parties occupying the premises on which they were situated. If the owners of such property shall not proceed within five days after notice given by the City Secretary, to construct such sewer under the superintendence of the City Engineer and in strict compliance with the ordinance, then the city shall have such work done by the City Engineer, and the City Council shall levy a special tax on such property owners to pay for such improvements, and in case such tax shall not be paid punctually, as provided for in the ordinance, the City Assessor and Collector shall proceed to sell and execute a deed to such property, just as in the case of other delinquent taxes.

Sec. 182. Any special taxes levied for the construction of any sewers shall be a lien on the property, and each piece of property shall be sold to pay the taxes on that piece; provided, they are not paid at the time provided by the ordinance for such payment.

CHAPTER XIII—MISCELLANEOUS PROVISIONS.

Sec. 183. Whenever in the opinion of the City Council, any building, fence, shed, awning or any erection of any kind, or part thereof, is liable to fall down and endanger persons or property, they may order any owner or agent of the same, or any owner or occupant of the premises on which such building, shed, awning or other erection stands, or to which it is attached, to take down and remove the same or any part thereof, within such time as they may direct, and to punish by fine and imprisonment, or either, any neglect, failure or refusal to comply therewith. The City Council shall, in addition, have the power to remove the same at the expense of the city, on account of the owner of the property or premises, and assess the expenses on the land on which it stood, or to which it was attached, and shall, by ordinance, provide for such assessment, the mode and manner of giving notice and the means of recovering any such expenses.

Sec. 184. That writs issued by the Mayor and Recorder of said city, for offenses against the laws, may be executed, and the accused persons arrested by the Marshal or his deputies, anywhere within the county in which such city is situated.

Sec. 185. Whenever any person has been required by the Mayor or Recorder to give a peace bond, or a bond for good behaviour, or any simi-

lar bond under this act, and has complied with such order, and been guilty of a violation or infraction of such bond, and the same is proved or established to the satisfaction of that officer, in any trial or complaint, such party, so offending, may be fined in the sum of two hundred dollars and imprisonment two months; and the city, in its corporate name, may sue in any court having jurisdiction for the recovery of the penalty of such bonds.

Sec. 186. The wards of the city of Dallas, by this act, shall be and remain unchanged by its passage; provided that the City Council shall have power, from time to time, to cause a division of said city to be made into as many wards as they may deem necessary and for the good of the inhabitants of said city, and may change the boundaries of same; but no such division or change shall be made unless it be done at least three months preceding the city election next ensuing, and said wards so established shall contain, as far as practicable, an equal number of voters.

Sec. 187. In all cases where by any provisions of this act, or by ordinance passed in pursuance thereof, a person is required to obtain a license for any calling, occupation, business or avocation, and has, on complaint before the Mayor or Recorder, been adjudged guilty of violating any rule, regulation or ordinance of the City Council in relation thereto, the Mayor or Recorder, in addition to fine and imprisonment, or either, may suspend or revoke the license so granted.

Sec. 188. The City Council shall, as soon as may be after the commencement of each municipal year, contract, as they may by ordinance or resolution determine, with a public newspaper of the city as the official paper thereof, and to continue as such until another is elected, and shall cause to be published therein all ordinances, notices and other matters required by this act or by the ordinance of the city to be published.

Sec. 189. The Mayor, City Secretary, Assessor and Collector, Treasurer, and all other officers charged with the collection or custody of money, shall, on the second Monday after the general election in April of each year, make a full and detailed statement and settlement of all their accounts, which shall show all moneys received from whatever source, and of all money paid, and for what purpose so paid, which statement shall be published in the newspaper at the time doing city printing. The statement required to be made by the City Secretary shall exhibit in full the resources and liabilities of the city, together with the amount of revenue collected from all sources during the preceding fiscal year, the amount expended on all accounts by the city during the same period, and such further particulars as shall be prescribed by ordinance, and for any refusal, neglect or failure to make such report at the time and in the manner herein prescribed, such officer and his securities on his official bond, shall forfeit and pay to the city of Dallas, a sum not less than one hundred dollars, nor more than one thousand dollars; and it shall be the duty of the City Attorney to institute, and prosecute to final judgment, suit at law in the name of the city of Dallas against such delinquent officer or officers, for the recovery of the same.

Sec. 190. Every ordinance imposing any penalty, fine, imprisonment or forfeiture for the violation of its provisions, shall, after the passage thereof, be published in every issue of the official paper for ten days. Ordinances passed by the City Council and requiring publication, shall be in force from and after the publication thereof, unless it

be therein otherwise expressly provided. Ordinances not requiring publication shall take effect and be in force from and after their passage, unless it shall be therein otherwise expressly provided.

Sec. 191. All ordinances of the city, where printed and published by authority of the City Council, shall be admitted and received in evidence in all courts and places without further proof.

Sec. 192. The style of all ordinances shall be: "Be it ordained by the City Council of the city of Dallas;" but it may be omitted when published in form of a book or pamphlet.

Sec. 193. All ordinances, regulations or resolutions in force in this city, and not in conflict with this act, shall remain in force under this act, until altered, amended or repealed, by the City Council after this act shall take effect.

Sec. 194. There shall be a digest of the ordinances of the city which are of general nature, published within two months, or as soon as practicable thereafter, from the third Monday in April, 1877, and a like digest within every period of five years thereafter; provided, it shall be the duty of each City Council to cause to be printed in pamphlet form, at the end of each municipal year, all the ordinances passed for the preceding year.

Sec. 195. All fines, forfeitures and penalties for the breach or violation of this act, or any regulation, order or ordinance of the City Council, shall, when collected, be paid into the City Treasury for the use and benefit of said city.

Sec. 196. No person other than an elector resident of the city shall be appointed or elected to any office in the city of Dallas.

Sec. 197. All officers of the corporation shall reside within the city limits during their continuance in office, and if any of them shall cease to reside within said limits, his office shall be thereby vacated.

Sec. 198. Resignations by any officer authorized to be elected or appointed by this act, shall be made to the City Council in writing, subject to their approval and acceptance; provided, that nothing in this section shall apply to appointments by the Mayor. Any such appointee wishing to resign shall present his resignation to that officer, in writing, for his action.

Sec. 199. The City Council shall have power to remove any officer for incompetency, corruption, malconduct or malfeasance in office, after due notice and an opportunity to be heard in his defense. In addition to the foregoing power of removal, the City Council shall have power, at any time, to remove any officer of the corporation by resolution, declaratory to its want of confidence in said officer; provided, that two-thirds of the Aldermen elected vote in favor of said resolution.

Sec. 200. Whenever any person shall be removed from any office, or the term for which he was elected or appointed has expired, or he has resigned or has ceased to act in his official capacity, he shall deliver over to his successor all books, papers and effects in any way appertaining to his office. Every person violating this provision shall be guilty of a misdemeanor, and shall be deemed an offender, within the meaning of any law of the State punishing such offenses; and in addition thereto he shall, on conviction before the Mayor or Recorder, be fined in a sum not exceeding five hundred dollars and imprisonment for any time not exceeding six months, or either. Any officer who shall have been trusted with the collection or custody of funds belonging to said city, who shall be in default of said city, besides being liable to crimi-

nal prosecution and civil action for debt, shall thereafter be incapable of holding any office under said city, until the amount of his defalcation shall have been fully paid to said city, with twelve per cent. interest.

Sec. 201. No member of the City Council shall hold any other employment or office under the city government while he is a member of said council, unless herein otherwise provided; and no member of the City Council, or any officer of the corporation, shall be directly or indirectly interested in any work, business or contract, the expense, price or consideration of which is paid from the City Treasury, or by an assessment levied, or an ordinance or resolution of the City Council; nor be the surety of any person having a contract, work or business with said city, for the performance of which security may be required; nor be the security on the official bond of any officer of the city.

Sec. 202. The members of the City Council, together with the City Secretary, shall be exempt from jury service during their term of office. Each Alderman shall be fined three dollars for each meeting which he fails to attend, unless on account of his own sickness, or that of his family. Any member of the City Council remaining absent for three regular consecutive meetings of the Board, unless prevented by sickness, without first having obtained leave of absence at a regular meeting, shall be deemed to have vacated his office, and the Mayor shall proceed to fill the vacancy in accordance with the charter.

Sec. 203. The City Council shall have power to remit, in whole or in part, and on such conditions as may be deemed proper, by a vote of two-thirds of all the members present, any fine or penalty belonging to the city, which may be imposed or incurred under this act, or any ordinance or resolution passed in pursuance thereof.

Sec. 204. The City Council shall, on or before the first day of January next preceding each and every election under this act, fix the salary and fees of office of the officers to be elected at the next regular election, and shall, at the same time, establish the compensation or salary to be paid to the officers elected or appointed by the City Council, and the compensation or salary so established shall not be changed during the term for which said officers shall be elected or appointed, except for extra services performed by order of the City Council.

Sec. 205. It shall not be necessary, in any action, suit or proceeding in which the city of Dallas shall be a party, for any bond, undertaking or security to be executed in behalf of the said city; but all such action, suits or proceeding shall be conducted in the same manner as if such bond, undertaking or security had been given, and for all the purposes of such actions, suits and proceedings, the city of Dallas shall be liable in the same manner and to the same extent as if the bond, undertaking or security in ordinary cases had been duly given and executed.

Sec. 206. The cemetery lots which have and may hereafter be laid out and sold for said city, for private places of burial, shall, with their appurtenances, be forever exempt from taxes, executions, attachment, or forced sales.

Sec. 207. All rights, actions, fines, penalties and forfeitures in suits, or otherwise, which have accrued under the laws heretofore in force, shall be vested in and prosecuted by the corporation; and no suit pending shall be affected by the passage of this act, but the same shall be prosecuted, or defended as the case may be, by the corporation.

Sec. 208. All property, real, personal or mixed, belonging to the city of Dallas shall continue to be vested in said corporation, and the

officers of said corporation, in office at the date of the passage of this act shall continue in the same until superseded in conformity with the provisions of this act, from and after it takes effect.

Sec. 209. Whenever a majority of the inhabitants, qualified to vote for members of the State Legislature, residents of any territory adjoining the limits of the city of Dallas, to the extent of one-half mile in width, shall vote in favor of becoming a part of said city, and three of them may make affidavit to the fact, to be filed before the Mayor, who shall certify the same to the City Council of said city, the said City Council may, by ordinance, receive them as a part of said city. From thenceforth, the territory so received shall be a part of said city, and the inhabitants thereof shall be entitled to all the rights and privileges of other citizens, and bonds by this act and ordinances made in conformity thereto, and passed in pursuance of this act.

Sec. 210. No indebtedness of any character whatever, hereafter incurred by said corporation, shall draw a higher rate of interest than ten per cent. per annum.

Sec. 211. The said city of Dallas, through the Mayor and the City Council, shall have the right, power and authority to acquire by lease for a term of years, or by actual purchase, the right and title to the iron bridge, its causeway, right of way and franchise, across the Trinity river at said city; and in case of the purchase thereof, to issue the bonds of the city therefor, in such sums, payable at such times and bearing such rate of interest, not exceeding ten per cent. per annum, as may be agreed upon by the Mayor and City Council and the company owning said bridge; but no bonds shall be issued for said purpose until the proposition shall have been approved by a majority of those voting at an election duly ordered by the City Council, who are authorized to vote on such questions by Section three of Article six of the State Constitution; nor shall such bonds be issued until the City Council shall have passed an ordinance providing for levying and collecting annually a sufficient tax to pay the interest thereon, and create an annual sinking fund of at least two per cent. on the whole amount of bonds to be issued.

Sec. 212. Whereas, It is of great emergency that the city of Dallas shall have power to provide for the payment of its outstanding indebtedness, and to secure the better government of said city, this act shall take effect and be in force from and after its passage.

Approved August 9, 1876.

Takes effect from its passage.

CHAPTER XV.—An Act for the relief of the citizens of Montague County.

Whereas, On the fifth day of May, A. D. 1876, the citizens of Montague county were visited by a cyclone or storm of wind and rain of such terrible magnitude and force as to almost entirely destroy their dwellings, fences, barns, and other personal property, together with their growing crops; and,

Whereas, by reason of said storm a very large proportion of the citizens of said county are now in destitute circumstances, therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the State taxes for the years 1876 and 1877 are hereby remitted to the citizens of the northern half of the county of Montague county, and the collection of said taxes for said years are hereby prohibited; provided,

(1294)

that nothing herein contained shall apply to lands owned by non-resident tax-payers; and provided, that the relief sought for be applied to the northern half of the county, the line to be defined by the Commission(ers)' Court.

Sec. 2. That the relief sought to be conferred by this act is an imperative public necessity and emergency; therefore, this act shall take effect and be in force from and after its passage.

Approved August 15, 1876.

Takes effect ninety days after adjournment.

CHAPTER XVI.—An Act to diminish the civil and criminal jurisdiction of the County Court of Angelina county, and to conform the jurisdiction of the District Court of said county to such change.

Section 1. Be it enacted by the Legislature of the State of Texas, That the County Court of Angelina county shall have and exercise the general jurisdiction of a probate court, and shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle the accounts of executors, administrators and guardians, and transact all business appertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons, and to apprentice minors and punish contempts, under such provisions as are or may be provided by general law governing County Courts throughout the State, but said County Court of Angelina county shall have no other jurisdiction, civil or criminal.

Sec. 2. That the District Court of Angelina county shall have and exercise jurisdiction in all matters and causes, civil and criminal, over which, by the general laws of this State, the County Court of said county would have jurisdiction, except as provided in Section one (1) of this act, and that all cases other than probate matters, and except as provided in Section one (1) of this act, be and the same are hereby transferred to the District Court of said county, and all writs and process, civil and criminal, heretofore issued by or out of said County Court other than those pertaining to matters over which, by Section one (1) of this act, jurisdiction is given to said County Court, be and the same are hereby made returnable to the next term of the District Court of said county.

Sec. 3. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 4. Whereas, the immediate operation of this act will save to the county of Angelina a large and unnecessary expense, whereby an emergency exists; therefore, that this act take effect and be in force from and after its passage.

Approved August 15, 1876.

Takes effect from and after its passage.

CHAPTER XVII.—An Act to relieve from taxation the property of certain citizens of Matagorda and Brazoria counties.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That the property of those citizens of Matagorda and Brazoria counties who were living on the Matagorda Peninsula, or on the shore of the mainland, and not more than five miles from the usual water-line at ordinary tide,

be, and the same is hereby relieved and exempted from taxation for the year 1876, on account of the great suffering and destruction of property inflicted upon those citizens by the calamitous storm which burst upon the coast of those counties, in September, 1875.

Sec. 2. The Assessor of Taxes for said counties, respectively, shall ascertain and note upon his assessment rolls the names of all persons owning property in said counties who were at the time of the happening of said storm living on said peninsular, or within said belt of five miles in width on the shore of the mainland, in said counties, and make a memorandum on said rolls that the property of said persons subject to assessment in said counties is exempt from taxation for the year 1876. The Sheriff of said counties, respectively, collecting the taxes for the year 1876, shall give to all such persons in lieu of a receipt for taxes, a certificate that the property of said persons in the county is exempt from taxation for the year 1876, under this act.

Sec. 3. Should the tax rolls for 1876 have been completed and passed from the control of the Assessor in the counties of Matagorda and Brazoria without having noted on said rolls the exemptions provided for in this act, any person entitled to such exemption may obtain the benefit thereof by making his own affidavit, supported by the affidavit of two other respectable citizens, showing that said applicant for exemption from taxes was, at the time of the happening of said storm, living on said Matagorda Peninsula, or within the belt on the mainland mentioned in this act; and upon presenting said affidavit to the proper Sheriff, said Sheriff shall deliver to the applicant the certificate of exemption from taxes for the year 1876, provided for in Section 2 of this act; and said Sheriff shall return said affidavits, accompanied by two lists of persons and property exempted thereon, to the County Commissioners' Court for approval or correction, and when approved or corrected, one of said lists shall be filed with the Clerk of the County Court and the other with the Comptroller of the State.

Sec. 4. That the relief intended to be extended by this act may be obtained in time, an imperative public emergency and necessity exist for the immediate passage and taking effect of this act, and it is therefore enacted that this act take effect and be in force from and after its passage.

Approved August 15, 1876.

Takes effect from its passage.

CHAPTER XVIII.—An Act to exempt the persons and property of Indianola from payment of certain taxes.

Whereas, It is known that the town of Indianola, in Calhoun county, in last year was devastated by a storm, with very great loss of life and property; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the persons and property of said place shall be exempt from taxation during the year eighteen hundred and seventy-six.

Sec. 2. That this act shall be in force from its passage, on account of the emergency for immediate relief from the pressure for payment of taxes under existing laws.

Approved August 15, 1876.

Takes effect from its passage.

DEPARTMENT OF STATE, }
AUSTIN, TEXAS, Nov. 27, 1876. }

I, T. H. BOWMAN, Acting Secretary of State of the State of Texas, do hereby certify that I have compared the foregoing laws of the Fifteenth Legislature with the originals now on file in the Department of State, and that they are true copies of such originals.

I further certify that the session of the Fifteenth Legislature of the State of Texas commenced at the city of Austin, on the eighteenth day of April, A. D. one thousand eight hundred and seventy-six, and adjourned on the twenty-first day of August, A. D. one thousand eight hundred and seventy-six.

In testimony whereof, I hereto sign my name and affix the seal of
[SEAL.] State, at the City of Austin, the day and date above written.

T. H. BOWMAN,
Acting Secretary of State.

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GENERAL LAWS
OF
THE STATE OF TEXAS

PASSED AT THE
REGULAR SESSION OF THE SIXTEENTH LEGISLATURE

CONVENED
AT THE CITY OF AUSTIN

JANUARY 14TH, 1879, AND ADJOURNED APRIL 24TH, 1879.

BY AUTHORITY.

GALVESTON
1879

GENERAL LAWS OF TEXAS.

CHAPTER I.—An act to amend section three of an act entitled “An Act to provide for the holding of district courts when the judge thereof is absent, or is from any cause disabled or disqualified from presiding,” approved August 15, 1876.

Section 1. Be it enacted by the Legislature of the State of Texas, That section three of the above recited act shall hereafter read as follows, viz: “That whenever any case or cases are called or pending, in which the district judge or the special judge chosen, as hereinbefore provided, shall be a party, or have an interest, or have been attorney, or of counsel, or otherwise disqualified from sitting in and trying the same, no change of venue shall be made necessary thereby; but the parties or their counsel shall have the right to select and agree upon an attorney of the court for the trial thereof; and if the parties or their attorneys shall fail to select or agree upon an attorney for the trial of such case, at or before the time it is called for trial, or if the trial of the case is pending and the district judge should become unable to act, or is absent and a special judge is selected who is disqualified to proceed with the trial, and the parties fail to select or agree upon a special judge who is qualified, at once, it shall be the duty of the district judge, or special judge presiding, to certify the fact to the governor immediately, by telegram, mail, or otherwise, whereupon the governor shall appoint a special judge, not so disqualified, to try the same. The evidence of such appointment by the governor may be transmitted by telegram or otherwise. The special judge so appointed shall qualify as provided in section first of this act, and such special judge shall proceed to the trial or disposition of such case immediately, if the trial is pending, otherwise when called or reached, as in other cases.”

Sec. 2. That an imperative public necessity requires the suspension of the constitutional rule requiring the reading of this bill on three several days, and that the rules be so suspended.

Sec. 3. The delay which occurs in the trial and disposition of civil and criminal cases in the courts in which the judges are or may be disqualified, and the parties fail to agree upon a special judge, creates an emergency for the immediate passage and taking effect of this act, and it is therefore enacted that this act shall take effect from and after its passage.

Approved January 17, A. D. 1879.

Takes effect from and after its passage.

CHAPTER II.—An act to amend an act entitled “An act fixing the times of holding the district courts of the seventh judicial district of the State of Texas,” approved August 16, 1876.

Whereas, The district court of Gregg county will be holden on the third Monday after the second Monday in January, 1879, thereby creating an imperative public necessity for the immediate enactment of a law changing the time of holding the district courts of the seventh judicial district of the State of Texas, therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, that the spring terms of the district courts of the seventh judicial district of the State of Texas, shall be holden at the times hereinafter specified, to wit: In the county of Smith, on the second Monday in March, and may continue in session six weeks; in the county of Henderson, on the sixth Monday after the second Monday in March, and may continue in session two weeks; in the county of Van Zandt, on the eighth Monday after the second Monday in March, and may continue in session three weeks; in the county of Wood, on the twelfth Monday after the second Monday in March, and may continue in session three weeks; in the county of Upshur, on the sixteenth Monday after the second Monday in March, and may continue in session two weeks; in the county of Gregg, on the eighteenth Monday after the second Monday in March, and may continue in session three weeks. That the Fall terms of said courts shall be holden at the times hereinafter specified, to wit: In the county of Smith, on the second Monday in September, and may continue in session six weeks; in the county of Henderson, on the sixth Monday after the second Monday in September, and may continue in session two weeks; in the county of Van Zandt, on the eighth Monday after the second Monday in September, and may continue in session three weeks; in the county of Wood, on the twelfth Monday after the second Monday in September, and may continue in session three weeks; in the county of Upshur, on the second Monday in January, and may continue in session two weeks; in the county of Gregg, on the second Monday after the second Monday in January, and may continue in session three weeks, except the fall term of said court in Gregg county in A. D. 1879, which may be holden on the third Monday after the second Monday in January, and may continue in session four weeks.

Sec. 2. That by reason of the accumulation of business on the dockets of the district court of Gregg county, and by reason of the near approach of the fall term of said court in Gregg county, an imperative public necessity and emergency exists, therefore this act shall take effect and be in force from and after its passage.

Approved January 24, A. D. 1879.

Takes effect from and after its passage.

CHAPTER III.—An act making an appropriation for the mileage and per diem pay of the members and per diem pay of the officers and employes of the Sixteenth Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of eighty thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any moneys in the

treasury, not otherwise appropriated, for the payment of mileage and per diem of the members and the payment of the per diem of the officers and employes of the Sixteenth Legislature of the State of Texas.

Sec. 2. That the certificate of the secretary of the Senate, approved by the president thereof, or the certificate of the chief clerk of the House, approved by the speaker thereof, shall be sufficient evidence to the comptroller upon which he shall audit the claims and issue his warrants upon the treasurer for the respective amounts.

Sec. 3. And whereas, the Sixteenth Legislature, for the payment of the officers and members of which this law is enacted, is now in session, and public policy requires their immediate payment, therefore an emergency existing that this law take effect and be in force from and after its passage, and it is so enacted.

Approved January 24, A. D. 1879.

Takes effect from and after its passage.

CHAPTER IV.—An act prescribing the times of holding the district courts in the third judicial district.

Section 1. Be it enacted by the Legislature of the State of Texas, That the district courts of the third judicial district shall be held at the times hereinafter specified, in each year, to wit: in the county of San Augustine, on the first Mondays in September and February, and may continue in session two weeks; in the county of Nacogdoches, on the second Mondays after the first Mondays in February and September, and may continue in session three weeks; in the county of Cherokee on the fifth Mondays after the first Mondays in February and September, and may continue in session four weeks; in the county of Houston, on the ninth Mondays after the first Mondays in September, and may continue in session five weeks, and on the ninth Mondays after the first Mondays in February, and may continue in session six weeks; in the county of Anderson, on the fourteenth Mondays after the first Mondays in September, and on the fifteenth Mondays after the first Mondays in February, and may continue in session until the business is disposed of; provided, that the session of the district court now being holden in the county of Anderson may be continued until the twenty-fourth day of February, A. D. 1879; and the next term of the district court of San Augustine county shall begin on the twenty-fourth day of February, A. D. 1879, and may continue until the tenth day of March, A. D. 1879; and the next term of the district court of Nacogdoches county shall begin on the tenth day of March, A. D. 1879, and may continue until the twenty-fourth day of March, A. D. 1879; and the next term of the district court of Cherokee county shall begin on the twenty-fourth day of March, A. D. 1879, and may continue until the seventh day of April, A. D. 1879.

Sec. 2. An imperative public necessity requires that the constitutional rule that this bill be read three several days in each House be suspended, and it is so suspended.

Sec. 3. The fact that there are now in jail in Anderson county, awaiting trial, a large number of persons whose cases cannot be called, and who will have no opportunity for a speedy public trial, unless the time of holding the district courts in the third judicial district is

changed, prolonging the present term, now being held in Anderson county, creates an emergency which requires that this act should take effect from and after its passage, and it is so enacted.

Approved January 25, A. D. 1879.

Takes effect from and after its passage.

CHAPTER V.—An Act prescribing the times of holding the district courts in the fourteenth judicial district.

Section 1. Be it enacted by the Legislature of the State of Texas, That the district courts of the fourteenth judicial district shall be held at the times hereinafter specified in each year, to wit: In the county of Falls, on the third Mondays in February and August, and may continue in session six weeks; in the county of Bell, on the first Mondays in April and October, and may continue in session four weeks; in the county of McLennan, on the first Mondays in May and November, and may continue in session ten weeks.

Sec. 2. All writs and process returnable to the said district courts heretofore fixed shall be returnable to the first terms of said courts held under the provisions of this act, and shall be as valid as if no change in the time of holding said courts had been made.

Sec. 3. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 4. And whereas, by reason of the accumulation of civil business in the district court of Falls county, an imperative public necessity exists which justifies the suspension of the rule requiring bills to be read on three several days, the rule requiring said reading is hereby suspended.

Sec. 5. And whereas, by changes herein made of the times of holding the district courts of said district, a conflict would arise between the present law and this act, if this act did not go into effect until ninety days after the adjournment of this Legislature, and whereas, this creates such an emergency as is contemplated by the constitution, therefore it is further enacted that this act shall take effect and be in force from and after its passage.

Approved January 30, A. D. 1879.

Takes effect from and after its passage.

CHAPTER VI.—An Act making an appropriation to defray the contingent expenses of the Sixteenth Legislature.

Whereas, It is of sufficient public importance that the contingent expenses of this Legislature be promptly paid in order that the material furnished and labor performed may be procured at cash prices.

Section 1. Therefore be it enacted by the Legislature of the State of Texas, That the sum of thirty thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any moneys in the treasury not otherwise appropriated to pay the contingent expenses of the Sixteenth Legislature; that the certificate of the chairman of the committee on contingent expenses of either House that an account

has been examined and approved by said committee and countersigned and approved by the president of the Senate or speaker of the House, as the case may be, shall be sufficient authority to authorize and require the comptroller to draw his warrant on the state treasurer for the payment of any claim against said fund.

Sec. 2. That this act take effect and be in force from and after its passage.

Sec. 3. That the want of an appropriation to pay the contingent expenses of the Sixteenth Legislature creates an imperative public necessity that the rule requiring this bill to be read on three several days in each House should be suspended, and it is so suspended.

Approved February 1, A. D. 1879.

Takes effect from and after its passage.

CHAPTER VII.—An act to make an appropriation to pay the postage and expressage of the Comptroller's office for six months, commencing January 1, 1879, and ending June 30, 1879.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of two thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any moneys in the treasury not otherwise appropriated, to be used in the payment of the expressage and postage necessary in the office of the comptroller of public accounts for six months, commencing January 1, 1879, and ending June 30, 1879.

Sec. 2. Whereas, There has been for the period named no appropriation made to pay for either the postage or expressage of said office; and, whereas, there is in said office a large accumulation of official correspondence awaiting postage; and, whereas, there is an imperative public necessity existing that an appropriation be immediately made to enable the comptroller to forward the necessary blanks to the assessors of taxes, it is declared that an emergency and an imperative public necessity exist requiring the passage of this act, and that it take effect and be in force from and after its passage, and it is so enacted.

Approved February 3, A. D. 1879.

Takes effect from and after its passage.

CHAPTER VIII.—An act to diminish the civil and criminal jurisdiction of the county court of Leon county, and to conform the jurisdiction of the district court of said county to such change.

Section 1. Be it enacted by the Legislature of the State of Texas, That the county court of Leon county shall have and exercise the general jurisdiction of a probate court, shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration, settle accounts of executors, administrators and guardians, transact all business appertaining to the estates of deceased persons, minors, idiots, lunatics,

persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons, and to apprentice minors as provided by law, and to issue all writs necessary to the enforcement of their said jurisdiction; to punish contempts under such provisions as are or may be provided by general law governing county courts throughout the state, but said county court of Leon county shall have no other jurisdiction, civil or criminal.

Sec. 2. That the district court of said Leon county shall have and exercise jurisdiction in all matters and causes, civil and criminal, over which, by the general laws of the state, the county court of said county would have jurisdiction, except as provided in section one (1) of this act, and that all cases other than probate matters and such as are provided in section one (1) of this act, be and the same are hereby transferred to the district court of said Leon county, and all writs and process, civil and criminal, heretofore issued by or out of said county court of Leon county, other than those pertaining to matters over which by section one (1) of this act jurisdiction is given to said county court of said county, be and the same are hereby made returnable to the next term of the said district court of Leon county.

Sec. 3. That the county clerk of Leon county be and he is hereby required, within twenty days after the passage of this act, to make a fair and complete transcript of all the entries on his dockets, civil and criminal, theretofore made in causes which by section two (2) of this act are transferred to the district court of said county, and deliver the same to the district clerk of said county, and all such cases shall immediately be docketed by said clerk, and such civil causes so transferred shall stand on the docket of said court as appearance cases for the next succeeding term of said court.

Sec. 4. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 5. Whereas, the immediate operation of the provisions of this act will save to the county of Leon a large and unnecessary expense, and thereby an emergency exists; therefore that this act take effect and be in force from and after its passage.

Approved February 6, A. D. 1879.

Takes effect from and after its passage.

CHAPTER IX.—An act to repeal an act entitled "An act to levy a tax on the privilege of keeping or harboring dogs, and to provide for the assessment and collection of the same."

Section 1. Be it enacted by the Legislature of the State of Texas, That an act entitled "An act to levy a tax on the privilege of keeping or harboring dogs, and to provide for the assessment and collection of the same," approved August 19, 1876, be and the same is hereby repealed.

Sec. 2. The fact that a large number of prosecutions are now pending against citizens of the state under the above recited act, and that assessors of taxes are proceeding to assess said tax for the year 1879, creates an imperative public necessity and emergency, that this act pass immediately and that it go into effect at once. It is, therefore, enacted that the rules requiring this act to be read on three several days be and

[the same] are hereby suspended, and that this act take effect and be in force from and after its passage.

Approved February 10, A. D. 1879.

Takes effect from and after its passage.

CHAPTER X.—An act to fix the times of holding the district courts of the eighteenth judicial district of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the district courts of the eighteenth judicial district of the state shall be holden at the times hereinafter specified, to wit: In Waller county on the first Monday in April and October, in each year, and may continue in session three weeks; in Fort Bend county on the third Monday after the first Monday in April and October, and may continue in session three weeks; in Brazoria county on the sixth Monday after the first Monday in April and October, and may continue in session three weeks; in Wharton county on the ninth Monday after the first Monday in April and October, and may continue in session three weeks; in Matagorda county on the twelfth Monday after the first Monday in April and October, and may continue in session two weeks; in Jackson county on the fourteenth Monday after the first Monday in April and October, and may continue in session until the business is disposed of.

Sec. 2. All writs and process returnable to any of the district courts of the eighteenth judicial district shall be returnable, after the taking effect of this act, to the terms of said courts as herein defined, and shall be as valid as if returned to the terms of said courts as they existed before the passage of this act.

Sec. 3. In order to meet the convenience of the people of the eighteenth judicial district in effecting the change of terms of court made by this act, it is necessary, and is so enacted, that this act take effect and be in force from and after its passage.

Sec. 4. In order that confusion may not result from the change herein made in the times of holding the court it is necessary that this bill be passed immediately, and that it go into effect at once; therefore, be it enacted that the rules be suspended and this bill be passed immediately and take effect from and after its passage.

Approved February 10, A. D. 1879.

Takes effect from and after its passage.

CHAPTER XI.—An Act amendatory of an act entitled "An act fixing the times of holding the district courts of the twenty-third judicial district," approved August 9, 1876.

Section 1. Be it enacted by the Legislature of the State of Texas, That the first section of the above entitled act be and the same is hereby so amended as hereafter to read as follows: The district court of the twenty-third judicial district shall be holden at the times and places hereinafter specified, to wit: In the county of De Witt on the first Tuesdays in March and September, and may continue in session three weeks; in the county of

Karnes on the third Tuesdays after the first Tuesdays in March and September, and may continue in session two weeks; in the county of Bee on the fifth Tuesday after the first Tuesday in March and September, and may continue in session one week; in the county of Refugio on the sixth Tuesday after the first Tuesday in March and September, and may continue in session one week; in the county of Aransas on the seventh Tuesday after the first Tuesday in March and September, and may continue in session one week; in the county of San Patricio on the eighth Tuesday after the first Tuesday in March and September, and may continue in session one week; in the county of Live Oak on the ninth Tuesday after the first Tuesday in March and September, and may continue in session one week; in the county of Goliad on the eleventh Tuesday after the first Tuesday in March and September, and may continue in session two weeks; in the county of Calhoun on the thirteenth Tuesday after the first Tuesday in March and September, and may continue in session one week; in the county of Victoria on the fourteenth Tuesday after the first Tuesday in March and September, and may continue in session until the business is disposed of.

Sec. 2. That in order to avoid conflict, and in order to facilitate the transaction of business in the courts of said district, an imperative public necessity and emergency exist for the passage of this act; therefore, it shall take effect and be in force from and after its passage.

Approved February 12, A. D. 1879.

Takes effect from and after its passage.

CHAPTER XII.—An act to protect mechanics, laborers and operatives on railroads against the failure of owners, contractors and sub-contractors or agents to pay their wages when due, and provide a lien for such wages.

Section 1. Be it enacted by the Legislature of the State of Texas, That all mechanics, laborers and operatives who may have performed labor in the construction or repair of any railroad, locomotive, car or other equipment to a railroad, or who may have performed labor in the operating of a railroad, and to whom wages are due or owing, shall hereafter have a lien prior to all others upon such railroad and its equipments for such wages as are unpaid.

Sec. 2. In all suits for wages due by a railroad company for such labor as heretofore mentioned, upon proof being satisfactorily made that such labor had been performed, either at the instance of said company, a contractor or sub-contractor, or agent of said company, and that such wages are due, and the lien given by this act is sought to be enforced, it shall be the duty of the court having jurisdiction to try the same, to render judgment for the amount of wages found to be due, and to adjudge and order said railroad and equipments, or so much thereof as may be necessary, to be sold to satisfy said judgment. In all suits of this kind it shall not be necessary for the plaintiff to make other lien holders defendants thereto, but such lien holders may intervene and become parties thereto and have their respective rights adjusted and determined by the court.

Sec. 3. Suits by mechanics, laborers and operatives, for their wages

due by railroad companies, may be instituted and prosecuted in any county in this state where such labor was performed, or in which the cause of action or part thereof accrued, or in the county in which the principal office of such railroad company is situated, and in all such suits service of process may be made in the manner now required by law.

Sec. 4. The lien created by this act shall cease to be operative in twelve months after the creation of the lien, if no steps be sooner taken to enforce it.

Sec. 5. It being important that the benefits of this act be realized at once, because the parties to be benefited by this act have no adequate protection under existing law, creates such imperative public necessity and an emergency as requires that it be of force and effect upon its passage, and it is so enacted.

Sec. 6. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Approved February 18, A. D. 1879.

Takes effect from and after its passage.

CHAPTER XIII.—An act to provide for designating, surveying and sale of three million and fifty thousand acres of the unappropriated public domain for the erection of a new state capitol, and other necessary public buildings, at the seat of government, and to provide a fund to pay for surveying said lands.

Section 1. Be it enacted by the Legislature of the State of Texas, That the vacant and unappropriated public domain embraced in the following boundaries is hereby appropriated and set apart for the purpose of erecting a new state capitol at the seat of government of Texas, and other necessary buildings, viz: In the counties of Deaf Smith, Parmer, Castro, Lamb, Bailey, Hockley, Dallam, Hartley, Cochran and Oldham.

Sec. 2. The governor, comptroller, treasurer of the state, attorney general and commissioner of the general land office, are hereby constituted a board to contract with some suitable person or persons to subdivide by surveys said land in league tracts where practicable. The contract shall be let to the lowest and best responsible bidder, after advertisement in one newspaper published in each of the cities of Galveston, Dallas, San Antonio and Jefferson, for four successive weeks, for sealed proposals. All bids shall be filed in the office of the comptroller of the state, and shall be by him safely kept until the time designated in the advertisement for opening sealed bids and awarding said contract.

Sec. 3. The advertisement for bids shall require the bids to specify at what price the work of surveying will be done, if all expenses in performing the work are at the exclusive charge of the contractor; and it shall also require the bidder to specify at what rate per mile for actual surveying he will furnish two surveyors, to be approved by the board, to perform the work within a time to be specified in the advertisement, the state to furnish all assistants and chain-carriers, and defray all expenses if the contract be awarded to pay for the surveying by the mile.

Sec. 4. Said board shall have power to reject any and all bids without assigning cause, if they shall be satisfied that the work can be done as well at less expense by reliable surveyors, surveying at a specific sum

per mile, on private contract, or from any other cause deemed sufficient, in which event the board shall proceed to make said contract in disregard of bids.

Sec. 5. Such an amount of force in service for frontier protection, if any, as can consistently with the interest of the service be spared, may be detailed, by order of the governor, to protect the surveyors and assist in the work of surveying, if the contract be awarded to a surveyor or surveyors, on a contract to survey for a specified sum per mile.

Sec. 6. The contract or contracts shall be in writing, and the person or persons executing the same shall enter into such bond with sureties as said board shall prescribe, to be not less than double the amount of the bid, for the faithful performance of said contract under the provisions of this act. The original bond shall be deposited with the secretary of state.

Sec. 7. The field notes and maps of the surveys shall be recorded in a well bound book or books by the contracting surveyor, the original of which shall be returned under oath to the general land office and shall constitute an archive therein, and the said contractor or contractors shall furnish each district surveyor in whose district lands are surveyed, a copy of the field notes and maps of surveys made in his district, also recorded in a well bound book which shall constitute a record in his office.

Sec. 8. In all cases two corners shall be marked and established on the ground for each survey, the lines between which, if in timber, shall be distinctly marked, and the exterior corners of the reservation herein made shall be marked with a monument of the most durable material accessible, to be at least six feet high.

Sec. 9. The governor shall appoint a commissioner who shall supervise the action of the surveyors in their work, and who shall have the power to prevent the surveying of any lands not deemed valuable for grazing or agricultural purposes. Said commissioner shall receive one hundred and fifty dollars per month while engaged in the discharge of his duties, not exceeding twelve months, and shall report under oath to the board in writing, the character of the soil, the topography of the land and the water on each survey, or the distance of the water nearest thereto, and the adaptation of the same for grazing or agricultural purposes, with such other facts as may aid in determining the value of the survey, which report shall be filed in the general land office.

Sec. 10. It shall be the duty of the board to advertise said lands from time to time for sale and sell the same for cash, or one-fourth cash, and the rest in equal payments of not exceeding one, two and three years, in such size tracts as will enable them to realize for the whole reservation the best price possible, said sales to be made for not less than fifty cents per acre. The comptroller shall, on payment of purchase money, give to the purchaser his receipt, under the seal of his office, describing the land sold, and upon the presentation of the same to the commissioner of the general land office, it shall be his duty to issue to the purchaser, his heirs or assigns, a patent thereto; provided, however, that nothing in this act contained shall be so construed as to authorize the sale of any lands under the provisions of this act until after the expiration of six months after the passage of this act, except so much thereof, not exceeding fifty thousand acres, as may be necessary to pay the appropriations herein made.

Sec. 11. Should any unsurveyed lands remain in the bounds of said reservation, after surveying three million and fifty thousand acres, the

said unsurveyed lands shall cease to be subject to any of the provisions of this act.

Sec. 12. Said board shall direct the time and manner in which all maps and abstracts of surveys made by contractors under this act shall be made, one copy of which shall be deposited in the general land office and another at the comptroller's office.

Sec. 13. Neither the contractor, surveyor, commissioner, employes and attaches of said parties shall have the right, either directly or indirectly, to file upon or locate any land for themselves or other person during the time they are employed by the state; and any such contractor, surveyor, commissioner, attache or employe, who shall violate the provisions of this section shall be deemed guilty of a felony, and upon conviction thereof before the district court of Travis county, to which jurisdiction is here given, shall, on conviction, be confined at hard labor in the penitentiary for not less than one nor more than five years.

Sec. 14. Should said commissioner and surveyors be unable to find within the bounds of the reservation made by this act, the requisite quantity of land suitable for grazing or agriculture, the same may be selected elsewhere from the unappropriated public domain.

Sec. 15. No money shall be drawn out of the state treasury to carry out the provisions of this act until it is placed there from the sale of the land, and all contracts shall so specify. Out of proceeds of first sales the sum of twelve thousand dollars is hereby appropriated, or so much thereof as may be needed to carry out the provisions of this act.

Sec. 16. All moneys resulting from the sale of said lands, over and above the amount necessary to defray the expenses of executing this act, shall be paid into the state treasury and there kept as a special fund to carry out the provisions of the constitution to erect a new state capitol, and other necessary public buildings, at the seat of government.

Sec. 17. One-half of the amount realized from the sale of the first fifty thousand acres of land sold under this act, shall be deposited in the treasury of the state to the credit of the common school fund.

Sec. 18. Whereas, An imperative public necessity exists for the immediate passage of this act, on account of the fact that the public domain hereby appropriated and set apart is fast being taken up and lost to the state; and,

Whereas, There is an emergency for the erection of a new state capitol and other public buildings at as early a day as practicable; therefore,

Be it enacted, That this act take effect and be in force from and after its passage.

Approved February 20, A. D. 1879.

Takes effect from and after its passage.

CHAPTER XIV.—An act making an appropriation for the support of the public free schools for the scholastic year ending August 31, 1879.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of six hundred thousand dollars be, and the same is hereby appropriated out of the available school fund for the support of the public free schools of the state for the scholastic year ending August 31, 1879.

Sec. 2. Inasmuch as many of the public free schools are now being

taught in the state and there is no existing appropriation for the payment of the teachers thereof, thereby creating an emergency, therefore that this act take effect and be in force from and after its passage.

Approved February 21, A. D. 1879.

Takes effect from and after its passage.

CHAPTER XV.—An act to fix the fees of the department of state in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That the department of state shall charge and collect for the use and benefit of the state, for services therein rendered, the following fees, to wit: For each and every charter, or amendment, or supplement thereto, of a private corporation created for the purpose of operating or constructing a railroad, or magnetic telegraph line, or street railway, in a town or city, authorized or required by law to be recorded in said department, a fee of one hundred dollars, to be paid when the same is filed for record. For each charter, or amendment, or supplement thereto, of a private corporation created for the support of public worship, for the support of any benevolent, charitable, educational or missionary undertaking, the support of any literary or scientific undertaking, or the promotion of painting, music or the fine arts, or for the encouragement of agriculture or horticulture, or for the maintenance of a public or private cemetery, a fee of five dollars, to be paid when the same is filed for record. For each and every charter, or amendment, or supplement thereto, created for any other purpose, a fee of twenty-five dollars, to be paid when the same is filed for record. For each commission to any notary public (except ex officio notaries), and for every commission to every officer, state, county or precinct, authorized or required by law to be commissioned by the governor, a fee of two dollars, to be paid before the delivery of said commissions. For every official certificate a fee of one dollar.

Sec. 2. It shall be the duty of the secretary of state to pay over at once all money collected under this act to the state treasurer.

Sec. 3. That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

Sec. 4. That a daily loss accrues to the state for the want of an act fixing the fees of the department of state, and that thereby an imperative public necessity and emergency is created for the immediate passage of this act, and it is enacted that this act take effect and be in force from and after its passage.

Approved February 21, A. D. 1879.

Takes effect from and after its passage.

CHAPTER XVI.—An act establishing the tenth, twelfth, thirteenth, twenty-eighth, twenty-ninth and thirtieth judicial districts, prescribing the times of holding the district courts therein, and providing for the appointment of district judges for the twenty-eighth, twenty-ninth and thirtieth judicial districts.

Section 1. Be it enacted by the Legislature of the State of Texas, That the counties of Cooke, Denton, Wise, Archer, Wichita, Clay and

Montague be, and the same are hereby constituted the tenth judicial district.

Sec. 2. That the counties of Brown, Coleman, Taylor, Callahan, Shackelford, Throckmorton, Young, Stephens, Eastland and Comanche be and the same are hereby constituted the twelfth judicial district.

Sec. 3. That the counties of Freestone, Navarro and Limestone, be and the same are hereby constituted the thirteenth judicial district.

Sec. 4. That the counties of Hill, Bosque and Johnson, be and the same are hereby constituted the twenty-eighth judicial district.

Sec. 5. That the counties of Jack, Parker and Tarrant, be and the same are hereby constituted the twenty-ninth judicial district.

Sec. 6. That the counties of Palo Pinto, Erath, Hood, Somervell, Hamilton and Coryell, be and the same are hereby constituted the thirtieth judicial district.

Sec. 7. That the district court in the counties comprising the said tenth judicial district shall be holden as follows: In the county of Cooke, on the first Mondays in February and August, and may continue in session six weeks; in the county of Denton, on the sixth Mondays after the first Mondays in February and August, and may continue in session six weeks; in the county of Wise, on the twelfth Mondays after the first Mondays in February and August, and may continue in session four weeks; in the county of Archer, on the sixteenth Mondays after the first Mondays in February and August, and may continue in session one week; in the county of Wichita, on the seventeenth Mondays after the first Mondays in February and August, and may continue in session one week; in the county of Clay, on the eighteenth Mondays after the first Mondays in February and August, and may continue in session two weeks; in the county of Montague, on the twentieth Mondays after the first Mondays in February and August, and may continue in session until the business is disposed of.

Sec. 8. That the district courts in the said twelfth judicial district be holden as follows: In the county of Brown on the first Mondays in April, August and December, and may continue in session two weeks; in the county of Coleman, on the third Mondays after the first Mondays in April, August and December, and may continue in session two weeks; in the county of Taylor, on the fifth Mondays after the first Mondays in April, August and December, and may continue in session two weeks; in the county of Callahan, on the seventh Mondays after the first Mondays in April, August and December, and may continue in session two weeks; in the county of Shackelford, on the ninth Mondays after the first Mondays in April, August and December, and may continue in session two weeks; in the county of Throckmorton, on the eleventh Mondays after the first Mondays in April, August and December, and may continue in session two weeks; in the county of Young, on the thirteenth Mondays after the first Mondays in April, August and December, and may continue in session two weeks; in the county of Eastland, on the fifteenth Mondays after the first Mondays in April, August and December, and may continue in session two weeks; in the county of Comanche, on the seventeenth Mondays after the first Mondays in April, August and December, and may continue in session until the business is disposed of.

Sec. 9. That the district courts in the counties composing the thirteenth judicial district shall be holden as follows: In the county of Freestone, on the first Mondays in April, August and December, and may continue in session four weeks; in the county of Navarro, on the fifth

Mondays after the first Mondays in April, August and December, and may continue in session six weeks; in the county of Limestone, on the eleventh Mondays after the first Mondays in April, August and December, and may continue in session until the business is disposed of.

Sec. 10. That the district courts in the counties comprising the twenty-eighth judicial district shall be holden as follows: In the county of Hill, on the first Mondays in April, August and December, and may continue in session four weeks; in the county of Bosque, on the fifth Mondays after the first Mondays in April, August and December, and may continue in session three weeks; in the county of Johnson, on the eighth Mondays after the first Mondays in April, August and December, and may continue in session until the business is disposed of.

Sec. 11. That the district courts in the counties composing the twenty-ninth judicial district shall be holden as follows: In the county of Jack, on the first Mondays in April, August and December, and may continue in session two weeks; in the county of Parker, on the third Mondays after the first Mondays in April, August and December, and may continue in session four weeks; in the county of Tarrant, on the seventh Mondays after the first Mondays in April, August and December, and may continue in session until the business is disposed of.

Sec. 12. That the district courts in the counties composing the thirtieth judicial district shall be holden as follows: In the county of Palo Pinto, on the first Mondays in March, July and November, and may continue in session two weeks; in the county of Hood, on the second Mondays after the first Mondays in March, July and November, and may continue in session two weeks; in the county of Somervell, on the fourth Mondays after the first Mondays in March, July and November, and may continue in session one week; in the county of Erath, on the fifth Mondays after the first Mondays in March, July and November, and may continue in session three weeks; in the county of Hamilton, on the eighth Mondays after the first Mondays in March, July and November, and may continue in session three weeks; in the county of Coryell, on the eleventh Mondays after the first Mondays in March, July and November, and may continue in session until the business is disposed of.

Sec. 13. All process heretofore issued or served returnable in any of the counties of said judicial district as heretofore prescribed by law, shall be considered as returnable at the times herein prescribed; and all such process is hereby legalized and validated as if the same had been made returnable at the times herein prescribed.

Sec. 14. That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

Sec. 15. That immediately after the passage of this act the governor shall appoint suitable persons as judges of the twenty-eighth, twenty-ninth and thirtieth judicial districts, who shall hold their offices until the next general election held for state and county officers, and until their successors shall be elected and qualified.

Sec. 16. The persons now holding the office of district judge in and for the tenth, twelfth and thirteenth judicial district, shall continue in the exercise of their said offices respectively of the tenth, twelfth and thirteenth judicial district as prescribed in the provisions of this act.

Sec. 17. That any district attorney elect, now exercising the functions of his office in any of the said tenth, twelfth and thirteenth districts, shall continue to hold his office as district attorney in the district in which he resides as is prescribed in this act.

Sec. 18. That an imperative public necessity and an emergency exists for the holding of the courts in said judicial districts in accordance with the provisions of this act; therefore this act shall take effect and be in force from and after the date of its passage, and it is so enacted.

Approved February 22, A. D. 1879.

Takes effect from and after its passage.

CHAPTER XVII.—An act prescribing the times of holding the district courts in the twenty-fourth judicial district.

Section 1. Be it enacted by the Legislature of the State of Texas, That the district courts of the twenty-fourth judicial district shall be held at the times hereinafter specified in each year, to wit: In the county of Kendall, on the first Mondays in March and September, and may continue in session one week; in the county of Kerr, on the first Mondays after the first Mondays in March and September, and may continue in session one week; in the county of Bandera, on the second Mondays after the first Mondays in March and September, and may continue in session one week; in the county of Medina, on the third Mondays after the first Mondays in March and September, and may continue in session two weeks; in the county of Frio, on the fifth Mondays after the first Mondays in March and September, and may continue in session one week; in the county of Uvalde, on the sixth Mondays after the first Mondays in March and September, and may continue in session two weeks; in the county of Kinney, on the eighth Mondays after the first Mondays in March and September, and may continue in session two weeks; in the county of Maverick, on the tenth Mondays after the first Mondays in March and September, and may continue in session until the business is disposed of.

Sec. 2. All writs and process returnable to the said district courts as heretofore fixed, shall be returnable to the first terms of said courts held under the provisions of this act, and shall be as valid as if no change in the time of holding said courts had been made.

Sec. 3. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 4. And whereas, by the changes herein made of the times of holding the district courts of said district, a conflict would arise between the present law and this act, if this act did not go into effect until ninety days after the adjournment of this Legislature, an imperative public necessity and emergency require that this act take effect and be in force from and after its passage, and therefore it is so enacted.

Approved February 24, A. D. 1879.

Takes effect from and after its passage.

CHAPTER XVIII.—An act to reorganize the fourth judicial district of the State of Texas, and to fix the times for holding courts in the different counties composing the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That the fourth (4) judicial district of the State of Texas shall hereafter be composed of the following named counties, to wit: Of the counties of Houston, Trinity, Walker, Grimes, Madison and Leon.

Sec. 2. That the district courts of said fourth (4) judicial district shall be holden at the places and times hereinafter specified, to wit: In the county of Houston, on the first (1) Mondays in March and September, and may continue in session seven (7) weeks; in the county of Trinity, on the seventh (7) Mondays after the first (1) Mondays in March and September, and may remain in session two (2) weeks; in the county of Walker, on the ninth (9) Mondays after the first (1) Mondays in March and September, and may remain in session three (3) weeks; in the county of Grimes, on the twelfth (12) Mondays after the first (1) Mondays in March and September, and may remain in session four (4) weeks; in the county of Madison, on the sixteenth (16) Mondays after the first (1) Mondays in March and September, and may remain in session two (2) weeks; in the county of Leon, on the eighteenth (18) Mondays after the first (1) Mondays in March and September, and may continue in session four (4) weeks, or until [the] business is disposed of.

Sec. 3. That all writs and process heretofore issued out of the district courts of the several counties named above, and returnable to the terms of their respective courts as they now exist, be and the same are hereby made returnable to the first terms of the said courts as provided for in this act.

Sec. 4. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 5. That the over-crowded condition of the dockets in the said district courts, whereby public business is much delayed, creates an imperative public emergency and necessity that the constitutional rules should be suspended; provided, that this act shall take effect on the third Monday in March, at which time the first term only held under this act shall begin in Houston county, on the third Monday in March, 1879, and may continue in session five weeks.

Approved February 24, A. D. 1879.

Takes effect from and after its passage.

CHAPTER XIX.—An act to set aside the public lands embraced within the territorial limits of the county of Greer to educational purposes, and for the payment of the public debt.

Section 1. Be it enacted by the Legislature of the State of Texas, That all the vacant and unappropriated public domain embraced in the territorial limits of the county of Greer, be and the same is hereby appropriated, one-half thereof for public free schools for the education of children in Texas, without reference to race or color, and the other half for the payment of the state debt.

Sec. 2. Said lands shall be surveyed and disposed of for the purpose of carrying out the provisions of this act in such manner as may hereafter be provided by law.

Sec. 3. That an emergency and imperative public necessity exists for the immediate passage of this act, that its objects may not be defeated by delay the same shall take effect and be in force from and after its passage.

Approved February 25, A. D. 1879.

Takes effect from and after its passage.

CHAPTER XX.—An act making appropriations for the support of the state government for the time beginning January 1, 1879, and ending February 28, 1879.

Section 1. Be it enacted by the Legislature of the State of Texas, That the following sums or so much thereof as may be necessary, be and the same are hereby appropriated out of any moneys in the state treasury not otherwise appropriated for the support of the state government for the time beginning January 1, 1879, and ending February 28, 1879:

Executive Office.

For salary of governor.....	\$666 66
“ private secretary	300 00
“ clerk	200 00
telegraphing	66 00
books and stationery.....	66 00
postage	41 25
porter hire, executive office and office of secretary of state	80 00
gardener	66 66
wood, light, etc., for the executive office.....	33 32
gas for mansion	33 32
	<u>\$1,553 21</u>

State Department.

For salary of secretary of state.....	\$333 33
“ chief clerk	300 00
“ two clerks	400 00
postage	200 00
freight and express charges.....	32 50
books and stationery.....	50 00
printing messages and other documents.....	5,000 00
	<u>\$6,315 83</u>

Treasury department.

For salary of treasurer	\$416 66
“ chief clerk	300 00
“ bookkeeper	275 00
“ assistant clerk, to be paid one-half out of the university fund and one-half out of the school fund	200 00
night watchman	150 00
porter hire, treasurer's and comptroller's departments...	80 00
books and stationery.....	50 00
wood and lights	25 00
postage	33 00
	<u>\$1,529 66</u>

Comptroller's Office.

For salary of comptroller	\$416 67
“ chief clerk	333 33
“ book-keeper	300 00
“ assistant book-keeper	208 33
“ chief tax clerk	275 00
“ chief warrant clerk	300 00
“ assistant warrant clerk	200 00

For salary of delinquent tax clerk.....	266 66
" assistant delinquent tax clerk.....	200 00
" additional clerks	2,000 00
telegraphing	8 00
wood	42 00
books and stationery.....	250 00
	<u>\$4,799 99</u>

General Land Office.

For salary of commissioner.....	\$416 67
" chief clerk	333 33
" Spanish clerk	300 00
" receiving clerk	266 66
" examining clerk	250 00
" calculator	250 00
" first assistant clerk	250 00
" two filing clerks.....	416 66
" two corresponding clerks	466 66
" one principal patent clerk	233 35
" fifteen assistant clerks.....	2,625 00
" chief draftsman	300 00
" four compiling clerks	1,000 00
" ten assistant compiling clerks	2,000 00
" night watchman	83 33
" porter	66 00
stationery, books and printing.....	500 00
postage	83 33
wood	81 16
	<u>\$9,922 15</u>

Blind Asylum.

For salary of superintendent	\$333 33
" principal teacher	120 00
" assistant teacher	83 10
" second assistant teacher	70 00
" third assistant teacher	40 00
" music teacher	100 00
" matron	80 00
groceries, provisions, etc.	2,050 00
salary of oculist	150 00
" cook and assistant	60 00
" seamstress	50 00
" washer, ironer and assistance	60 00
	<u>\$3,196 43</u>

Deaf and Dumb Asylum.

For salary of superintendent	333 30
" principal teacher	200 00
" second teacher	133 33
" third teacher	80 00
" fourth teacher	70 00
" instructor in printing and experts employed by printing board	166 66
" matron	80 00

For salary of assistant matron	60 00
“ gardener	60 00
“ driver and laborer	40 00
“ washer and ironer	43 00
“ two cooks	76 00
groceries, provisions and miscellaneous	1,570 00
printing material	25 00
	<u>\$2,937 29</u>

Adjutant General's Office.

For salary of adjutant general	\$425 00
“ chief clerk	300 00
“ clerk	200 00
wood and porter hire	90 00
protection of frontier	16,000 00
	<u>\$17,015 00</u>

Attorney General's Office.

For salary of attorney general	\$333 33
“ ass't attorney general and traveling expenses	500 00
“ clerks	500 00
stationery	62 50
postage	31 25
wood and lights	16 00
fees in felony cases	166 66
	<u>\$1,609 74</u>

Judiciary.

For salary of three supreme judges	\$1,775 00
pay of sheriff's attendance	166 66
books, stationery—supreme court	133 33
porter hire	80 00
librarians for supreme court and court of appeals, provided that the part of the fund for librarian set apart for the Galveston branch of the supreme and appellate courts shall be paid to Galveston county	150 00
fuel and light for supreme court	75 00
“ “ court of appeals	75 00
salaries of three appellate judges	1,775 00
pay of sheriffs in attendance on court of appeals	166 66
clerk's fees in criminal cases, court of appeals	333 33
salary of porter of court of appeals	80 00
contingent fund for supreme and appellate courts	50 00
salary for twenty-seven district judges	11,250 00
salary of judge of criminal district court of Galveston and Harris counties	500 00
salaries of the district attorneys of first, twelfth, seventeenth, twentieth, twenty-third and twenty-sixth judicial districts	500 00
costs to be paid sheriffs' clerks, county attorneys in district, county and justices' courts	12,000 00
salary of district attorney for criminal district court for the counties of Galveston and Harris	83 33
	<u>\$35,193 31</u>

Department of Insurance, Statistics and History.	
For salary of commissioner.....	\$333 33
“ clerk	250 00
Newspapers for public library.....	16 66
Postage, printing, wood and lights.....	83 33
	<hr/>
	\$683 32

Interest.

For annual interest on public debt.....	\$27,000 00
salary of superintendent of public buildings and grounds	200 00

Sec. 2. And, whereas, an emergency exists for the immediate operation of this act in the fact that all appropriations for the support of the state government have expired, and the officers and employes are now working without appropriation for their compensation, thereby creating a public necessity for the immediate passage of this act; therefore, that this act take effect and be in force from and after its passage.

Approved February 26, A. D. 1879.

Takes effect from and after its passage.

CHAPTER XXI.—An act to create the thirty-first judicial district of the State of Texas and to organize the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That the counties of Chambers, Liberty, Hardin, San Jacinto, Polk and Angelina be and they are hereby constituted a judicial district, to be designated and known as the thirty-first judicial district.

Sec. 2. It shall be the duty of the governor, immediately upon the taking effect of this act, to appoint one district judge and one district attorney for said thirty-first judicial district, who shall each hold his office until the next general election for such officers.

Sec. 3. That the district court of said thirty-first judicial district shall have the same jurisdiction and powers as is conferred by the constitution and law upon the district courts of this state.

Sec. 4. The district court of the thirty-first judicial district shall be held at the times hereinafter specified, to wit: In the county of Chambers, on the first Mondays in March and September, and may continue in session two weeks; in the county of Liberty, on the second Mondays after the first Mondays in March and September, and may continue in session four weeks; in the county of Hardin, on the sixth Mondays after the first Mondays in March and September, and may continue in session two weeks; in the county of San Jacinto, on the eighth Mondays after the first Mondays in March and September, and may continue in session four weeks; in the county of Angelina, on the twelfth Mondays after the first Mondays in March and September, and may continue in session three weeks; in the county of Polk, on the fifteenth Mondays after the first Mondays in March and September, and may continue in session four weeks, or until the business is disposed of.

Sec. 5. All writs and process returnable to the district courts in the counties above named as heretofore fixed by law, shall be returnable to the first terms of said court held under the provisions of this act.

Sec. 6. The large amount of business now pending before this Legis-

lature and the short time allotted to the session creates an imperative necessity which authorizes the rule to be suspended which requires this bill to be read on three several days, and it is therefore suspended.

Approved February 27, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER XXII.—An act to reorganize the seventeenth judicial district of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the seventeenth judicial district shall hereafter be composed of the counties of McCulloch, Menard, Kimble, Mason, Gillespie, Llano, Burnet, San Saba, Lampasas, Concho and Williamson.

Sec. 2. That the county of Concho shall be attached to the county of McCulloch for judicial purposes.

Sec. 3. That as the time for holding the courts in the seventeenth judicial district will begin the first Monday in March, an emergency exists for the immediate passage of this act, it shall therefore take effect and be in force from and after its passage.

Approved February 28, A. D. 1879.

Takes effect from and after its passage.

CHAPTER XXIII.—An act to amend an act entitled "An act to fix the times for holding the terms of the district courts for the seventeenth judicial district, including the county of McCulloch," approved July 29, 1876.

Section 1. Be it enacted by the Legislature of the State of Texas, That the terms of the district courts of the seventeenth judicial district shall be held at the times and places hereinafter specified, to wit: In the county of San Saba on the first Mondays in March and September, and may continue in session two weeks; in the county of McCulloch, on the third Mondays in March and September, and may continue in session one week; in the county of Menard, on the fourth Mondays in March and September, and may continue in session one week; in the county of Kimble, on the first Mondays after the fourth Mondays in March and September, and may continue in session one week; in the county of Mason, on the second Mondays after the fourth Mondays in March and September, and may continue in session one week; in the county of Gillespie, on the third Mondays after the fourth Mondays in March and September, and may continue in session one week; in the county of Llano, on the fourth Mondays after the fourth Mondays in March and September, and may continue in session one week; in the county of Burnet, on the fifth Mondays after the fourth Mondays in March and September, and may continue in session two weeks; in the county of Lampasas, on the seventh Mondays after the fourth Mondays in March and September, and may continue in session two weeks; in the county of Williamson, on the ninth Mondays after the fourth Mondays in March and September, and may continue in session until the business of the term is disposed of.

Sec. 2. That the county of Concho is attached to the county of McCulloch for judicial purposes.

Sec. 3. All writs and process heretofore issued in conformity with law, from any of the courts named in this act shall be of the same force and effect as if issued and returnable after the passage of this act, and all bail bonds and recognizances heretofore entered into shall be of the same force and effect and as binding upon the obligors thereto to secure the attendance of the principals therein as if made and entered into after the passage of this act; provided, the same are otherwise in conformity with law.

Sec. 4. That as the time for holding the courts in the seventeenth judicial district will begin the first Monday in March, an emergency exists for the immediate passage of this act; it shall therefore take effect and be in force from and after its passage.

Approved February 28, A. D. 1879.

Takes effect from and after its passage.

CHAPTER XXIV.—An act to attach certain counties therein named to the twenty-fifth judicial district.

Section 1. Be it enacted by the Legislature of the State of Texas, That the unorganized county of LaSalle shall be and the same is hereby attached to the county of McMullen for judicial and surveying purposes.

Sec. 2. That the counties of Duval and McMullen shall be and the same are hereby attached to the twenty-fifth judicial district for judicial purposes.

Sec. 3. The aforesaid counties being unattached to any district for judicial purposes a public necessity and emergency exists for the immediate passage of this act, and it is enacted that this act take effect and be in force from and after its passage.

Approved March 1, A. D. 1879.

Takes effect from its passage.

CHAPTER XXV.—An act to fix the times of holding the district courts of the twenty-fifth judicial district of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the district courts of the twenty-fifth judicial district of the State of Texas shall be holden at the times and places herein specified, to-wit: In the county of Cameron on the third Mondays in February and August, and may continue in session four weeks; in the county of Hidalgo, on the fourth Mondays after the third Mondays in February and August, and may continue in session one week; in the county of Starr, on the fifth Mondays after the third Mondays in February and August, and may continue in session two weeks; in the county of Zapata, on the seventh Mondays after the third Mondays in February and August, and may continue in session one week; in the county of Webb, on the eighth Mondays after the third Mondays in February and August, and may continue in session two weeks; in the county of McMullen, on the tenth

Mondays after the third Mondays in February and August, and may continue in session one week; in the county of Duval, on the eleventh Mondays after the third Mondays in February and August, and may continue in session two weeks; in the county of Nueces, on the thirteenth Mondays after the third Mondays in February and August, and may continue in session four weeks.

Sec. 2. That the unorganized county of Encinal shall be attached to the county of Webb for judicial purposes.

Sec. 3. That all writs and process returnable to any of the courts of the twenty-fifth judicial district, as fixed by the ordinance of the convention shall, after the passage of this act, be returnable to the terms of said courts as herein fixed.

Sec. 4. That all causes now pending in other counties from the counties of McMullen and Duval shall be sent to the said counties of McMullen and Duval; and the clerks of the district courts of the other said counties shall forthwith transmit to the clerk of the district court of McMullen and Duval counties the original papers and a transcript of all orders made in such causes.

Sec. 5. That in order to meet the convenience of the people of the twenty-fifth judicial district in effecting the change of terms made by this act it is an imperative necessity, and it is so enacted that this act take effect and be in force from and after its passage.

Approved March 1, A. D. 1879.

Takes effect from and after its passage.

CHAPTER XXVI.—An act to provide for the care and protection of the East Texas Penitentiary.

Section 1. Be it enacted by the Legislature of the State of Texas, That the governor of the state is hereby empowered to appoint one man to take possession of and guard and preserve the buildings and grounds known as the East Texas Penitentiary, situated in Cherokee county, at a salary not exceeding the rate of fifty dollars per month.

Sec. 2. That the person so appointed shall, before entering upon the duties of the position, enter into a bond, payable to the governor of the State of Texas and his successors in office, in the sum of one thousand dollars, conditioned that he will, by himself or others, take possession of the buildings and grounds known as the East Texas Penitentiary, and will faithfully guard and preserve the same. The bond shall be approved by the county judge of Cherokee county.

Sec. 3. The want of an existing law providing for the care of the said property creates an imperative public necessity and an emergency that the rule should be suspended requiring this act to be read three several days in each house, and it is so suspended; and that this act shall take effect from and after its passage, and it is so enacted.

Approved March 5, A. D. 1879.

Takes effect from and after its passage.

CHAPTER XXVII.—An act to regulate and control the assessment of taxes on real estate.

Section 1. Be it enacted by the Legislature of the State of Texas, That the commissioner of the general land office shall furnish to each assessor of taxes in this state a correct abstract of all the surveys of land and number of acres therein in their respective counties, and on the first day of January of each year said commissioner of the general land office shall furnish said assessors an additional list of all new valid surveys in his county during the year; provided, that in case the records of the land office do not show the quantity of acres in a survey, the surveyor of the district shall furnish said assessor a certified statement of the number of acres therein.

Sec. 2. That the commissioners' court of each county in this state shall procure and furnish the assessor of said county three well-bound books of not less than six hundred and forty pages each, and an index book for same, and such other stationery as may be necessary; said books to be of the best material and make, and shall have printed headings as per following form:

Abstract No. 346 Assessor's Abstract for Co.

PATENT					CERTIFICATE		
NO.	VOL.	TO WHOM ISSUED	DATE			ACRES	NO.
			MONTH	DAY	YEAR		

Rendered for Taxation.

YEAR	BY WHOM RENDERED	ACRES	VALUE	YEAR	BY WHOM RENDERED	ACRES	VALUE

The blanks to be filled by the assessor with the abstract number, name of party to whom the certificate was issued, the number, class and character of the certificate, the name of the party to whom the patent issued, number of volume of patent, the month, day and year it was issued, and the number of acres each survey contains; which whole survey shall stand as a debit against the assessor.

Sec. 3. That each assessor shall be required to make an abstract of all the blocks or subdivisions of each of the cities or towns or villages of his county. A book or books of at least (480) four hundred and eighty pages each, to be furnished him by the commissioners' court of his county for that purpose, with an index book to the same, which said book or books shall have a blank space for a diagram or plot of each block or subdivision, giving the number of the lots as per form following:

Block No. _____ Assessor's Abstract of City Lots in _____ County, City of _____

YEAR	OWNER'S NAME	NO. LOT	VALUE
/			

YEAR	OWNER'S NAME	NO. LOT	VALUE
/			

And the said assessor shall draw a plot of each block in the blank space left for that purpose, giving the number of each lot. And the whole of said block or subdivision shall be a debit against the assessor.

Sec. 4. That each assessor in this state when he shall have made the assessment of his county for each year, shall on the first day of June of each year, or as soon thereafter as practicable, carry from each person's assessment the number of acres and its value on each survey of lands, lots or blocks, to that particular survey, lot or block found on the abstract books provided in sections 1, 2 and 3 of this act. And that all the parts of each survey or block placed on said abstract books shall be a credit to the assessor on that particular survey. And said assessor shall deduct the total number of acres rendered on each survey or block from the total number of acres of the whole survey or block, as is shown by said abstract, and if any part is left unrendered, then he shall assess the same to the owner or owners thereof if known, and if unknown then to "unknown owners," and the value thereof shall be affixed by him, sanctioned by the board of equalization; provided, that the owner or owners of any survey and grant of land may show by a survey, to be made by the county surveyor of the county, that the survey and grant in which they are interested does not contain the full complement of acres, showing how many acres are in fact embraced within the calls of the particular survey and grant.

Sec. 5. That the assessor's abstracts shall be kept in his office at the county seat of his county, as records of his office, and shall be at all times subject to the inspection of the public. The index book shall show the original grantee, the number of acres, the abstract number and the volume and page in which each survey is placed.

Sec. 6. That should there be any survey of lands, lots or blocks not on the abstract book or books which are by law subject to taxation, the assessor shall enter such lands, lots or blocks on the assessment list as though the same appeared on said abstract books.

Sec. 7. That each assessor of taxes shall procure from the board of equalization of his county a certificate that all the surveys and parts of surveys of lands in his county, and all the lots and blocks of the cities and towns of his county are rendered for taxation, which certificate shall be forwarded to the comptroller of this state, before he shall issue to said assessor a draft on the tax collector of his county. And the same rule shall apply to the commissioner's court before they issue drafts on the county treasurer for his pay for assessing the county taxes.

Sec. 8. The board of equalization or the county commissioner's court shall, if the assessor fails to perform the duties required by this act within a reasonable time, employ some other competent person to have the requirements of this law carried out, and the compensation therefor shall be deducted from the assessor's pay for that year.

Sec. 9. The comptroller of this state shall be required to have this law carried out in the unorganized counties of this state, where lands are located.

Approved March 8, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER XXVIII.—An act for the preservation of Oysters and Oyster Beds, and for protecting the rights of persons to the same, and affixing penalties.

Section 1. Be it enacted by the Legislature of the State of Texas, That oyster beds shall be public or private; all those not designated as private shall be public. No person shall take or catch oysters from any public beds for market, or sale, or planting, from the first day of May to the first day of September in any year. Any person offending against the provisions of this section, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined for each offense not less than ten nor more than fifty dollars.

Sec. 2. When oysters are culled or selected from public beds, those not wanted for market or sale, or for family use, shall be planted while alive, or cause to be planted while alive, by the person or persons taking them, on the beds from which they were taken, or on some other bed public or private, and any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined for each offense not less than ten nor more than fifty dollars.

Sec. 3. If any creek, bayou, lake or cove not made a navigable stream by the laws of this state, runs through the lands of any person, such person, or other lawful occupant, shall have the exclusive right to use said creek, bayou, lake or cove for sowing or planting oysters within the boundaries of said lands; but if said creek, bayou, lake or cove is not included in the survey of said lands, then the owner or lawful occupant of the shores thereof shall have the exclusive right to use said creek, bayou or lake for sowing or planting oysters to the center or middle thereof respectively.

Sec. 4. Any person shall have the right of obtaining a location for planting oysters and making private oyster beds within any public navigable waters of this state, other than those mentioned in section 3 of this act, by designating a square space, not exceeding two hundred yards square, intended by him for such purpose, by not less than four stakes, firmly and permanently planted, one at each corner of such location, and by establishing posted notices of the same on one or more of said corner stakes; said stakes shall project at least four feet above ordinary tides and shall not be less than six inches in diameter; provided, that no person shall have the right to locate any of the public oyster beds within public navigable waters as they now exist; and provided further, that no person shall locate any private oyster bed in the public navigable waters of this state, within one hundred yards of low water-mark without the consent of the riparian owner, said owner only having that right, nor shall anyone be permitted in anywise to interfere with navigation by enclosures of said oyster beds.

Sec. 5. That all oyster beds planted, created or established in accordance with sections 3 and 4 of this act shall be private oyster beds and the owners of the same be entitled to all the privileges and protection guaranteed by this act, after they have given due notice (of the same having been staked off) to the county clerk for record in his office.

Sec. 6. That it shall not be lawful for any person to plant, or purchase oysters for planting, bedding or depositing them from the first day of May to the first day of September in any year; and if any person

shall violate this provision he shall be deemed guilty of a misdemeanor, and, on conviction thereof, he shall be fined for each offense not less than ten nor more than one hundred dollars.

Sec. 7. If any person shall take oysters from a private bed, or shall take oysters deposited by one making up a cargo for market or for family use without the permission of the owner thereof, he shall be deemed guilty of theft, and upon conviction thereof shall be punished in accordance with existing law.

Sec. 8. All prosecutions for misdemeanors under this act shall be had before any justice of the peace of the precinct where the offense is committed; one-half of the fines collected for violations of the provisions of this act shall go to the informer and the other half to the common school fund of the county. All prosecutions for theft under this act shall be had in courts having jurisdiction thereof.

Approved March 8, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER XXIX.—An act to release certain inhabitants in the county of Lamar, in this State, from the payment of taxes assessed and now due for the year 1878, in consequence of a great public calamity.

Whereas, On the twenty-first day of May, A. D. 1878, there occurred a great public calamity in a portion of Lamar county, in this state, on and near what is known as Shockey's prairie, the same being a rain and hail storm of such destructive severity as has not been known to have occurred within the recollection of the oldest inhabitant of this state; and

Whereas, The inhabitants in that portion of said county, by the ravages of the said storm, lost all of their then growing crops and fences, and many of them lost their houses, stock and poultry, and all of them were so injured as to be unable to produce enough during said year to meet their necessary family expenses and pay the taxes assessed against them; and

Whereas, Their property had been listed for taxes before said storm, and was, by the same, so materially injured as to justify a release of said inhabitants from the payment of their taxes for the year 1878; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, (two-thirds of the members of each House by a vote concurring therein), That the following named inhabitants of said portion of said county be and they are hereby released from the payment of the several sums named, the same being the amount of state and county taxes assessed against them and now due for the year 1878, to wit:

Names.	State Tax.	County Tax.
John H. Anderson.....	\$ 2 91	\$ 2 92
J. L. White.....	28 84	27 16
William Ross.....	3 56	4 41
James McGrew.....	2 76	4 69
W. A. Wilson.....	5 33	4 99
William M. Morris.....	2 91	2 82
Joe Doyle.....	2 00	2 00
F. M. Cross.....	2 06	2 06
Joseph Henry.....	3 03	2 93
Mrs. Lou Mosely.....	11 93	10 73
S. C. Geason.....	16 04	14 64
T. A. Geason.....	16 23	14 80
Andrew Cora.....	2 10	2 09
G. W. Corn.....	9 82	9 04
S. H. Corn.....	7 15	7 63
Merritt Corn.....	4 49	4 24
G. W. Casey.....	2 78	2 71
William M. Corn's Estate.....	9 31	8 37
Robert H. Wilson.....	5 29	5 97
William P. Long.....	6 30	6 67
Andrew G. Capps.....	3 47	3 33
Davis and Lenoir.....	10 92	13 23
Joseph Lenoir.....	6 66	7 20
P. B. Beasley.....	4 52	4 27
M. C. Towns.....	2 00	2 00
Mrs. Susan Burnett.....	5 61	5 05
W. A. E. Sandsberry & Bro.....	17 67	17 71
L. Clarkson.....	6 27	5 84
J. W. Jones.....	17 26	15 73
A. A. Williams.....	2 00	2 00
John Johnson.....	4 82	4 54
J. A. Howze.....	19 44	17 70
J. F. Keel.....	3 09	2 98
G. W. Wheeler.....	2 50	2 45
W. W. Frazier.....	4 39	4 15
Charley Teel.....	3 32	3 19
E. P. Davis' Estate.....	21 56	19 40
Mrs. Eliza Corn.....	5 52	4 97
Harry Geason.....	2 83	3 75
Hezekiah Sherrod.....	2 15	2 14
Sardis Sherrod.....	2 00	2 00
Jesse Cross.....	2 13	2 11
J. Gloss Winn.....	2 26	4 24
J. T. Geason.....	3 87	3 68
R. A. Tibbett.....	60	54
Albert W. Tibbett.....	2 08	2 87
"Dick" Winn.....	2 13	2 11
H. D. Smith.....	2 75	3 68
T. M. Nelson.....	3 28	3 16
F. M. Anderson.....	2 39	2 36
Barney Pope.....	2 84	2 76

Names.	State Tax.	County Tax.
W. H. Alston.....	\$12 59	\$11 54
Allen C. Burnett.....	2 36	2 33
J. W. Tibbs.....	2 19	2 18
Sam Warford.....	4 10	4 89
John F. Pope.....	2 47	2 43
J. Augustus Andrews.....	3 03	2 93
J. M. Walker.....	2 05	2 05
Jonah Sherrod.....	2 00	2 00
J. M. C. Yates.....	11 05	11 95
H. C. Pender.....	55	2 50
J. L. White, guardian of McCarty heirs.....	7 99	7 19
High Duff.....	7 07	6 56
Noah Blake.....	2 09	2 08
Louis Hawk.....	2 07	2 07
Jesse M. Anderson.....	2 78	3 71
J. Drakeford Ashford.....	2 24	2 21
Lem. Bowers.....	10 54	9 69
A. S. Nowell.....	4 88	4 59
R. D. Turpin.....	2 29	2 26
F. M. Turpin.....	2 23	2 20
T. H. White.....	2 69	2 62
John P. Davis.....	5 25	4 92
George Graves.....	3 19	3 08
L. C. Davis's estate.....	16 85	15 17
James Webb.....	2 00	2 00
N. W. Wharton.....	7 69	7 13
James Mullens.....	4 11	3 90
E. C. Brock.....	2 49	2 45
James J. Steel.....	2 51	2 45

and that the several sums of taxes against said persons respectively be and the same are hereby remitted.

Sec. 2. That the comptroller of public accounts of this state and the county treasurer and commissioners' court of Lamar county, be and they are hereby authorized and required to credit the tax collector of Lamar county with the several sums herein and hereby released, the said comptroller to credit him with the several amounts of state tax, and said treasurer and commissioners' court to credit him with the several sums of county tax in his settlement with them for taxes collected by him for the year 1878, by deducting the same from the aggregate of the tax lists now in his hands for collection for the said year; and said tax collector be and is hereby relieved from collecting said several sums, or any part thereof, from the said several persons hereby relieved.

Sec. 3. An imperative necessity and emergency exists which requires the immediate passage and taking effect of this act, as the tax collector is required by law to collect said several sums of taxes, by seizure and levy from said persons, if the same be not paid by the first day of March, 1879, and the several inhabitants may not, in consequence thereof, be benefitted by this act as intended; therefore, be it enacted that this act take effect and be in force from and after its passage.

Approved March 8, A. D. 1879.

Takes effect ninety days after adjournment.

(1332)

CHAPTER XXX.—An act amendatory of and supplemental to an act entitled "An act establishing the tenth, twelfth, thirteenth, twenty-eighth, twenty-ninth and thirtieth judicial districts, providing the times of holding the courts therein, and providing for the appointment of district judges for the twenty-eighth, twenty-ninth and thirtieth judicial districts," approved, 1879.

Section 1. Be it enacted by the Legislature of the State of Texas, that section eight of the above recited act be amended as follows: After the clause in said section prescribing the times of holding the courts in Young county; in the county of Stephens, on the fifteenth Mondays after the first Mondays in April, August and December, and may continue in session two weeks; in the county of Eastland, on the seventeenth Mondays after the first Mondays in April, August and December, and may continue in session two weeks; in the county of Comanche, on the nineteenth Mondays after the first Mondays in April, August and December, and may continue in session until the business is disposed of.

Sec. 2. That the above recited act, having taken effect from and after its passage, creates such an emergency as requires that this supplemental act, in order to be consistent and in harmony therewith, should also take effect and be in force from and after its passage, and it is so enacted, and the time at which said courts shall be held being near at hand creates such an imperative necessity as justifies the suspension of the constitutional rule requiring this bill to be read on three several days, and said rule is hereby suspended.

Approved March 8, A. D. 1879.

Takes effect from and after its passage.

CHAPTER XXXI.—An act to authorize the levy and collection of a special tax in counties where it may be necessary to construct, or to complete, or to complete payment for court houses and jails.

Whereas, In many counties in this state it is necessary to build, or to finish paying for, court houses and jails, and the present law not furnishing authority to raise means therefor, and, consequently, a public imperative necessity exists that the rules be suspended for the passage of this bill; therefore—

Section 1. Be it enacted by the Legislature of the State of Texas, That the county commissioners' courts of any county in this state where it may become necessary to construct, or to complete court houses and jails, or to complete payment for construction of same, be and they are hereby authorized and empowered to levy and collect an annual ad valorem tax, not to exceed fifty cents on the one hundred dollars in any one year in said counties, to raise a fund to erect or complete, or complete payment for construction of court houses and jails in said counties.

Sec. 2. That an imperative public necessity and emergency exists for the erection, completion and payment for building of court houses and jails in such counties and the passage of this act; therefore this act shall take effect and be in force from and after its passage.

Approved March 11, A. D. 1879.

Takes effect from and after its passage.

CHAPTER XXXII.—An act to amend section two of "An act to define the eighth judicial district, and to fix the times of holding the courts therein," approved August 11, 1876.

Section 1. Be it enacted by the Legislature of the State of Texas, That section two of the above recited act be so amended as to hereafter read as follows, viz:

Section 2. That the district courts in and for the county of Hunt be holden on the first Mondays in January and July, and may continue in session five weeks; in the county of Delta, on the fifth Mondays after the first Mondays in January and July, and may continue in session two weeks; in the county of Hopkins, on the seventh Mondays after the first Mondays in January and July, and may continue in session five weeks; in the county of Rains, on the twelfth Mondays after the first Mondays in January and July, and may continue in session two weeks; in the county of Kaufman, on the fourteenth Mondays after the first Mondays in January and July, and may continue in session four weeks; in the county of Rockwall, on the eighteenth Mondays after the first Mondays in January and July, and may continue in session until the business is disposed of.

Approved March 13, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER XXXIII.—An act regulating the election of clerks of the district and county courts, in counties having less than eight thousand inhabitants; and to validate the acts of persons heretofore or now holding both of said offices.

Section 1. Be it enacted by the Legislature of the State of Texas, That in counties in this state having a population of less than eight thousand inhabitants, one person may hold the offices of both clerk of the district court and county court. The number of inhabitants to be determined on the basis of five inhabitants for every vote cast for governor at the last preceding general election held in this state in said counties.

Sec. 2. That all acts heretofore done by any persons holding both the offices of clerk of the district and county courts, which are authorized by this act, or any pre-existing law, are hereby legalized, and shall be as valid as though this law was in effect at the time of said acts.

Sec. 3. That all laws in conflict with this act be and the same are hereby repealed.

Approved March 13, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER XXXIV.—An act to repeal "an act to provide annual pensions for the surviving soldiers of the Texan revolution, and the surviving signers of the declaration of Texan independence, and the surviving widows of such soldiers and signers," approved July 28, 1876.

Section 1. Be it enacted by the Legislature of the State of Texas, That "an act to provide annual pensions for the surviving soldiers of the Texan revolution, and the surviving signers of the declaration of Texan

independence, and the surviving widows of such soldiers and signers," approved July 28, 1876, be and the same is hereby repealed.

Whereas, At least ten times as many names have been presented as was contemplated at the passage of this act, as pensioners; from the fact that twenty thousand dollars, or so much thereof as might be necessary, was appropriated to pay off said claims; and

Whereas, We find a deficit of one hundred and fifty thousand dollars, and still claims are being presented; and an imperative necessity exists requiring the immediate repeal of this act, it is therefore enacted that this act take effect and be in force from and after its passage.

Approved March 13, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER XXXV.—An act to amend section four (4) of an act entitled "An act to amend an act entitled 'an act to provide for the supplying of lost records in the several counties in this state,' approved April 14, 1874," approved July 13, 1876.

Section 1. Be it enacted by the Legislature of the State of Texas, That section four (4) of an act entitled "An act to amend an act entitled 'an act to provide for the supplying of lost records in the several counties in this state,' approved April 14, 1874," approved July 13, 1876, be and the same is hereby amended so as to hereafter read as follows:

"Section 4. That when any of the original papers mentioned in section one (1) of this act may have been saved or preserved from loss, the record of said original having been lost, destroyed or carried away, the same may be recorded again, and this last registration shall have force and effect from the date of filing for original registration; provided, said originals are recorded within four years next after such loss, destruction or removal of the records, and certified copies from any record authorized by the provisions of this act to be made may be received in evidence in all the courts of this state, in the same manner and with like effect, as certified copies of the original record; provided, that when any judgment is substituted under and by virtue of this act, the time elapsing between the destruction and substitution of said judgment shall not effect any proceeding to a higher court on appeal or writ of error; and said judgment when so substituted shall carry all the rights thereunder in every respect as the originals, especially preserving the liens from the date of the originals and giving the parties the right to issue execution under the substituted judgment as under the originals."

Approved March 13, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER XXXVI.—An act to reorganize the third judicial district and prescribe the times of holding the district courts in the third and seventh judicial districts.

Section 1. Be it enacted by the Legislature of the State of Texas, That the third judicial district shall be composed of the counties of Sabine, San Augustine, Nacogdoches, Cherokee and Anderson.

Sec. 2. That the district courts of the said third judicial district shall be holden at the times and places hereinafter specified, as follows: In the county of Sabine, on the first Mondays in February and September, and may continue in session two weeks; in the county of San Augustine, on the second Mondays after the first Mondays in February and September, and may continue in session two weeks; in the county of Nacogdoches, on the fourth Mondays after the first Mondays in February and September, and may continue in session three weeks; in the county of Cherokee, on the seventh Mondays after the first Mondays in February and September, and may continue in session four weeks; in the county of Anderson, on the eleventh Mondays after the first Mondays in February and September, and may continue in session until the business is disposed of; provided, that Sabine county shall not become a part of the third judicial district, nor be governed by this act until September 1, 1879; that the court now in session in San Augustine county shall complete its present term without reference to this act; that the next term of the court of Nacogdoches county shall be holden under the law as it exists without reference to this act; that the next term of the court in Cherokee county may continue four weeks; that the next term of the district court in Anderson county shall begin on the fifth day of May, A. D. 1879.

Sec. 3. Be it further enacted by the Legislature of the State of Texas, That from and after the first day of August, A. D. 1879, the spring terms of the district courts of the seventh judicial district of the State of Texas shall be holden at the times hereinafter specified, to wit: In the county of Smith on the last Monday in February, and may continue in session six weeks; in the county of Henderson on the sixth Monday after the last Monday in February, and may continue in session two weeks; in the county of Van Zandt on the eighth Monday after the last Monday in February, and may continue in session three weeks; in the county of Wood on the twelfth Monday after the last Monday in February, and may continue in session three weeks; in the county of Upshur on the sixteenth Monday after the last Monday in February, and may continue in session two weeks; in the county of Gregg on the eighteenth Monday after the last Monday in February, and may continue in session three weeks. That the fall terms of said courts shall be holden at the times hereinafter specified, to wit: In the county of Smith on the second Monday in September, and may continue in session six weeks; in the county of Henderson on the sixth Monday after the second Monday in September, and may continue in session two weeks; in the county of Van Zandt on the eighth Monday after the second Monday in September, and may continue in session three weeks; in the county of Wood on the twelfth Monday after the second Monday in September, and may continue in session three weeks; in the county of Upshur, on the second Monday in January, and may continue in session two weeks; in the county of Gregg on the second Monday after the second Monday in January, and may continue in session three weeks.

Sec. 4. All writs and process issued before this act takes effect in the several counties, and made returnable to the courts at a different time than that herein specified shall be returnable to the courts as herein specified, and shall have the same force and effect as if they had specified the return day, as provided by this act.

Sec. 5. The necessity for preventing inconvenience in some counties and conferring needed benefits on others create an emergency that this

act take effect from and after its passage, and an imperative public necessity, that the rule requiring this bill to be read on three several days in each house should be suspended and it is so enacted.

Approved March 19th, A. D. 1879.

Takes effect from and after its passage.

CHAPTER XXXVII.—An act to provide for the building, making and completion of such works and improvements at the East Texas Penitentiary at Rusk, as may be necessary and proper to put the same into operation, and to make an appropriation to carry out the provisions of this act.

Whereas, The true policy and interests of the state, as well as growing public sentiment on the subject, imperatively demands that as far as practicable convicts shall be employed inside of prison walls; and, whereas, the present financial condition of the state does not justify the necessary appropriation out of the general revenue to finally complete and put into operation the East Texas penitentiary, at Rusk, therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the governor, comptroller of public accounts and attorney general of this state, be and they are hereby constituted a board, to be styled the "East Texas penitentiary board," whose powers and duties shall be hereinafter specified.

Sec. 2. It shall be the duty of the said board to appoint one competent civil engineer and one competent architect, whose duty it shall be, under the direction of said board, to examine said East Texas penitentiary and draw plans and specifications of all improvements deemed proper and necessary by said board to fit and prepare the said penitentiary for the reception, safe-keeping and management of convicts. Said engineer and architect shall also make careful and itemized estimates of the probable maximum cost of each class of improvements, and shall in a report, sworn to by them as correct and just, submit such plans and specifications and itemized estimates to the said board within forty days from the date of their appointment. Said engineer and architect shall each be entitled to receive out of the funds paid into the state treasury by the lessees of the Huntsville penitentiary, the sum of five dollars per day for each day actually employed, for which the comptroller shall draw his warrant upon the certificate of the said board that the services were satisfactorily performed.

Sec. 3. After the sworn report of the engineer and architect has been submitted to the board, said board is hereby authorized and fully empowered, for and in behalf of the State of Texas, to contract with the lessees of the state penitentiary at Huntsville upon such terms and conditions as they may deem best for the interest of the state, for the building, making and completing of walls, work shops and such other improvements and fixtures, with convict labor, at the East Texas penitentiary at Rusk, as may be necessary and proper to put such penitentiary into operation; provided, that said board may contract with any other person or persons who will contract and obligate themselves to comply with the terms of the agreement for the completion of the work to be done on said penitentiary for a less cost to the state than that charged

by the lessees, said lessees to be paid by deducting and withholding from the amount that may be due from time to time to the state the amount which they may be entitled to, under contract made with them by said board, if they become the contractors; but if any other person or persons become the contractor or contractors, they shall be paid with the money paid into the state treasury by the lessees of the penitentiary or penitentiaries, and the amount of money to be paid by them, to the amount of sixty thousand dollars per annum, or so much thereof as may be necessary, is hereby appropriated. Said lessees or contractors shall give bond to the State of Texas in such amount as may be required by said board, to be approved by said board, for the faithful performance of their contract. The governor shall appoint a supervisory architect to protect the interest of the state in the construction of the work contemplated by this act, whose duty it shall be to observe the progress of the work and see that it is in compliance with the contract and specifications. He shall stop the work when it is being done in violation of the contract, and shall report once in each month to the governor concerning the progress and character of the work. He shall be allowed during its progress a salary of five dollars per day.

Sec. 4. The sum of four hundred dollars, or so much thereof as may be necessary, of the moneys paid or to be paid into the state treasury by the lessees of the state penitentiary, be and the same is hereby appropriated to carry out the provisions of this act.

Sec. 5. Whereas, an imperative public necessity exists that the East Texas penitentiary be completed at as early a day as practicable, to the end that the convicts of the state may be confined within the walls of the penitentiary, and an emergency existing that this law take effect from and after its passage, it is so enacted.

Approved March 19, A. D. 1879.

Takes effect from and after its passage.

CHATER XXXVIII.—An act to amend “an act regulating elections,” approved August 23, 1876.

Section 1. Be it enacted by the Legislature of the State of Texas, That the first section of an act entitled “An act to regulate elections,” approved August 23, 1876, shall hereafter read as follows: That the election precincts of the counties of this state, as now established by the county commissioners’ court, shall constitute election precincts; but the commissioners’ court of each county, at their first regular term in each year, if they deem it necessary, may divide their respective justices’ precincts into as many election precincts as they shall deem expedient, which shall all be numbered. No election precinct shall be formed out of any two or more justices’ precincts, and they shall designate one place in each of such election precincts at which elections shall be held; and they shall, at their first regular or called term in each year, select and appoint from and among the residents of each election precinct, some suitable person to be the presiding officer of each precinct; but each justice’s precinct shall constitute at least one election precinct.

Approved March 20, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER XXXIX.—An Act requiring the commissioner of the general land office to issue patents to parties purchasing university lands in accordance with the original subdivisions made under the act approved August 30, 1856.

Section 1. Be it enacted by the Legislature of the State of Texas, That the commissioner of the general land office be and he is hereby authorized and required to issue patents to all parties purchasing university lands in accordance with the original subdivisions, as made under the provisions of "an act authorizing the disposition and sale of university lands," approved August 30, 1856, where said subdivisions have been made and field notes filed in the general land office in accordance with said act; and if it should appear from actual survey on the ground, conforming to the lines and corners of said original subdivisions, that there is in any subdivision more or less than one hundred and sixty acres, the commissioner of the general land office shall issue patent for the number of acres contained in said subdivision, upon the purchaser paying into the state treasury the amount per acre that the subdivision may have been appraised at; provided, that this act shall not affect any rights heretofore acquired under existing laws relative to said university lands.

Sec. 2. That all laws and parts of laws in conflict with this act be, and the same are hereby repealed.

Approved March 20, A. D. 1879.

Takes effect ninety days after adjournment.*

CHAPTER XL.—An act to amend an act entitled "an act defining what money and property is subject to taxation or exemption, and the mode of listing the same," approved August 21, 1876.

Section 1. Be it enacted by the Legislature of the State of Texas, That section third of an act entitled "An act defining what money and property is subject to taxation or exemption and the mode of listing the same," approved August 21, 1876, shall be so amended as to read as follows:

Sec. 3. Personal property shall, for the purpose of taxation, be construed to include all goods, chattels, moneys, credits and effects, where-soever they may be in this state; provided, that moneys, credits, bonds and other evidences of debt shall be included, whether the same be in or out of this state; all ships, boats and vessels belonging to inhabitants of this state, if registered in this state, whether at home or abroad, and all capital invested therein; all moneys at interest, either within or without this state, due the persons to be taxed over and above what he pays interest for; and all other debts due such persons over and above their indebtedness; all public stocks and securities; all stocks in turnpikes, railroads, canals and other corporations (except national banks) out of the state owned by inhabitants of this state; all personal estate of money-eyed corporations, whether the owners thereof reside in or out of the state, and the income of any annuity unless the capital of such annuity be taxed within the state; all shares in any bank organized or that may be organized under the law of the United States; all improvements made by persons upon lands held by them, the title to which is still vested in the

State of Texas or in any railroad company, or which have been exempted from taxation for the benefit of any railroad company, or any other corporation, whose property is not subject to the same mode and rule of taxation as other property; provided, that nothing in this section shall be construed as to exempt from taxation any improvements on lands granted to any railroad company or other corporation and exempted from taxation for a term of years.

Whereas, the time for assessment of property in this state is at hand, and thousands of dollars worth of property in this state is escaping taxation under present law, such an emergency exists as contemplated by the constitution of the state for the immediate passage of this bill; therefore, this act shall take effect from and after its passage.

Approved March 20, A. D. 1879.

Takes effect from and after its passage.

CHAPTER XLI.—An act to authorize the commissioner of the general land office to contract for the lithographic printing of maps of the various counties of this state, and to provide for the sale of the same, and to make an appropriation to carry this act into effect.

Section 1. Be it enacted by the Legislature of the State of Texas, That the commissioner of the general land office be and he is hereby authorized to contract for the printing and delivery to him of lithographic copies of maps of the various counties of this state; provided, that the cost of such printing and delivery shall not exceed two cents per copy.

Sec. 2. That when said commissioner has prepared the official copy of the map of any county from which such lithographic copies are to be printed, he shall copyright the same in the name and for the benefit of the State of Texas, in accordance with the laws of copyright of the United States.

Sec. 3. That when such copies are received by the commissioner, he shall offer the same for sale at not less than fifty cents, nor more than one dollar per copy, regulating the price by the amount of labor required in the original compilation of such maps and transcribing same; provided, that when a party desires to purchase at any one time one hundred or more copies of the maps of any county or counties, he shall be allowed a discount on the fixed price of same of twenty per cent.

Sec. 4. That all moneys received from sales of maps, as above provided, shall be paid into the state treasury as are all other fees received by the general land office.

Sec. 5. That the sum of two thousand dollars, or so much thereof as is necessary, be and the same is hereby appropriated out of any money in the treasury not otherwise appropriated to carry this act into effect.

Sec. 6. That, whereas, the state is at great expense to employ and pay extra draftsmen and clerks to make maps of the various counties, and which cannot be sold to the counties and citizens for less than from fifteen to thirty-five dollars, an imperative public necessity and emergency exist for the passage of this act, it shall therefore take effect and be in force from and after its passage.

Approved March 20, A. D. 1879.

Takes effect from and after its passage.

CHAPTER XLII.—An act to amend “an act to prohibit the sale, exchange or gift of intoxicating liquors in any county, justice’s precinct, city or town in this state that may so elect, prescribing the mode of election, and affixing a punishment for its violation.”

Section 1. Be it enacted by the Legislature of the State of Texas, That section 6 of the above entitled act shall hereafter read as follows, to wit:

Sec. 6. It is hereby made the duty of the district judges to give this act in charge to the grand juries; and it is made the special duty of the county attorneys to file or have filed a complaint in the county court of said county against all houses, and the keepers thereof, used for the sale, exchange or gift of any kind of intoxicating liquors in any county, justice’s precinct, city or town in this state where local option has been voted by the citizens thereof. Where any hidden device is resorted to to prevent or avoid detection of the keeper thereof, and upon said complaint being filed with any justice of the peace, describing the place where the said device is kept, and the name of the person violating the law, if known, said justice of the peace shall issue his warrant commanding any sheriff or constable to search said place, and if the law is being violated, to arrest the person or persons so violating the law; and it shall be the duty of the sheriff of the county wherein such house or place of such device is kept, for the sale or gift of intoxicating liquors, to demand admission into the same, and upon admittance being refused, the sheriff is hereby authorized and required by law to force open the same and arrest and hold for trial before the courts all such persons who shall violate any of the provisions of this act; and it is the duty of county judges and all justices of the peace, having jurisdiction in the premises, to see that this act is rigidly enforced.

Approved March 20, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER XLIII.—An act authorizing the payment of taxes of non-residents of counties to be made at the comptroller’s office.

Section 1. Be it enacted by the Legislature of the State of Texas, That non-residents of counties, owing state or county taxes, are hereby authorized to pay the same to the comptroller of public accounts; provided, that all taxes due by said non-residents shall be paid at the comptroller’s office on or before the first day of January next after the assessment of such taxes; provided further, that the collectors of taxes shall be entitled to the commissions on all moneys paid by non-residents to the comptroller of public accounts, due their counties respectively.

Sec. 2. Whereas, the present session of the Legislature is approaching near its adjournment, and the passage of this act is a public and imperative necessity; therefore, an emergency exists for suspending the constitutional rule which requires that this act be read on three several days in each house, so that this act may be passed and become a law at the present session.

Approved March 22, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER XLIV.—An act to ratify and declare valid a compromise by the commissioners' court of Brazoria county, and the issuance of county bonds, and levy of tax therefor in settlement of bonds of said county, issued under an act of the Legislature, passed September 1, 1856, entitled "An act to permit the county of Brazoria to levy a special tax for purposes of internal improvements," and the judgments in the federal court recovered thereon.

Section 1. Be it enacted by the Legislature of the State of Texas, That, whereas, under an act of the Legislature of the State of Texas, entitled "An act to permit the county of Brazoria to levy a special tax for purposes of internal improvements," passed September 1, 1856, bonds were issued by said county, dated March 1, 1859, and suit brought on said bonds in the circuit court of the United States, at Galveston, against said county, and said bonds were held valid and binding on said county, and judgments recovered for the principal and interest thereon; and an order and decree was passed by the commissioners' court of said county, March 2, 1878, for the compromise and settlement of said bonds and judgments by the issuance of new bonds of the county of Brazoria, dated March 1, 1878, for the original principal of said bond (all interest being remitted) and to levy a tax for the payment thereof of one-fourth of one per cent., the same tax provided for in the said act of September 1, 1856. The said order and decree of the said county court, dated March 2, 1878, and the issuance of said bonds, dated March 1, 1878, and the levy of tax for payment thereof, are hereby ratified and declared in all respects legal and valid.

Approved March 22, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER XLV.—An act to provide for the holding of special terms of the district courts, when and where the same may be necessary.

Section 1. Be it enacted by the Legislature of the State of Texas, That hereafter, in any county in this state where it may become necessary in the opinion of the district judge of the district in which said county is situated, on account of an accumulation of business which cannot be disposed of in the time provided for the regular term of the district court, there may be held a special term or terms of the district court, for the transaction and disposition of the accumulated business undisposed of, as provided in this act.

Sec. 2. That whenever it may become necessary, in the opinion of the district judge, to hold a special term in any county in his district, under the provisions of this act, he shall cause to be entered an order to that effect upon the minutes of a regular term of the court held in said county, and in said order shall appoint a time for the holding of such special term at a day not less than thirty days after the adjournment of the regular term at which such order is entered, which order shall state the length of time deemed necessary for the holding of such special term.

Sec. 3. That upon the order provided for in section two of this act being entered, the clerk of the district court of such county shall issue six notices containing a copy of the order of the court as entered, and

also the name, style and number of each case appearing upon the docket of said court which will be before the court for disposition at such special term, which notice and copies shall be under seal of the court.

Sec. 4. The sheriff shall post the true copies of said notice at six public places in such county, one of which shall be at the court house door, and shall return the original notice to the special term, with his return thereon, stating the manner in which he has executed the same, which notice and return shall be entered in full in the minutes of the court.

Sec. 5. At any special term under the provisions of this act no grand jury shall be empaneled and no new cases can be brought to said term, but the jury commissioners at the regular term of the court at which the order for a special term is entered, shall, under the instruction of the court, select a regular venire for each week of such special term, which shall be done in accordance with the law regulating juries for any regular term of the court; provided, that nothing within the provisions of this act shall be so construed as to interfere with the selecting of juries at one regular term of the court for the next regular term of the court.

Sec. 6. The juries for any special term shall be summoned in accordance with the law regulating juries at regular terms of court, and at any special term all proceedings may be had in any case which could be had at any regular term of such court, and all process issued to a previous regular term or to such special term, and all orders, judgments and decrees, and all proceedings had in any case, criminal or civil, which would be lawful if had at a regular term, shall have the same force and effect, and any proceeding had may be appealed from under the same rules, regulations and limitations as provided for in appeals from regular terms of court.

Sec. 7. The fact that, in the district courts of many counties in this state there is such an accumulation of business as cannot be disposed of at the regular terms, and which the public interest demands should be done as speedily as possible, creates an imperative public necessity for the immediate passage of this act, and an emergency that it shall take effect and be enforced from and after its passage, and it is, therefore, so enacted.

Approved March 22, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER XLVI.—An act to authorize counties to take up their outstanding bonds and to issue others in lieu thereof, and to provide by special tax for the payment of interest and principal of the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That any county of this state that may have heretofore issued bonds under any special law for the purpose of erecting court houses and jails, and funding other outstanding indebtedness existing prior to the adoption of the present constitution, and the same are still outstanding and unpaid, the commissioners' court thereof shall have power, with the consent of the holders of said bonds, to take up and destroy the same, and issue therefor other bonds with interest and principal payable at such times and places as may be agreed upon by the commissioners' court and the holders of a majority of the bonds; provided, that all bonds issued under

this act shall be redeemable at the option of the county at any time after two years from their issuance, and shall not bear a higher rate of interest than the county is now paying or required by existing laws to pay.

Sec. 2. The commissioners' courts of the counties that may issue bonds under this act shall levy and cause to be collected an annual special ad valorem tax of twenty-five cents on the one hundred dollars worth of property in their respective counties, to pay the interest and provide a sinking fund for the payment of its bonds.

Approved March 22, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER XLVII—An act defining the duties of commissioners' courts when sitting as a board of equalization.

Section 1. Be it enacted by the Legislature of the State of Texas, That the county commissioners' courts of the several counties of this state shall convene and sit as a board of equalization, on the second Monday in June of each year, or as soon thereafter as practicable before the first day of July, to receive all the assessment lists or books of the assessors of their counties for their inspection, correction, equalization and approval.

Sec. 2. The board of equalization of each county shall cause the assessor to bring before them, at the time specified in section one of this act, all the assessment lists or books of the assessor of their county, for their inspection, to see that each and every person has rendered his property at a fair market value as is contemplated by law; and said board shall have power to send for persons and papers, swear and qualify persons who testify, to ascertain the value of such property; and if they are satisfied it is too high, they shall lower it to its proper value, and if too low they shall raise the value of such assessments to their proper value.

Sec. 3. That the board of equalization shall have power to correct any errors in the assessment of property at any time before the tax is paid on said property.

Sec. 4. The board of equalization of each county in this state, shall equalize as nearly as possible—

1st. All the improved lands by their class to wit: first, second and third class. The first class shall embrace the better quality of lands and improvements. The second class shall embrace the second quality of lands and improvements. The third class shall embrace lands of but small or inferior improvements.

2d. The unimproved lands shall embrace, first, second and third class, and all other property made as nearly uniform as possible.

Sec. 5. That the board of equalization, after they have inspected and equalized as near as possible, shall approve said lists or books, and return them to the assessor for making up the general rolls as are required by law, when said board shall meet again and approve said rolls, if they find them correct.

Sec. 6. The assessor of taxes shall furnish the board of equalization, on the first Monday in June of each year, or as soon thereafter as practicable, a certified list of names of all persons who either refuse to swear or to qualify, or to sign the oath or affirmation as required by law, together with the assessment on said person's property made by him

through other information; and the board of equalization shall examine, equalize and correct assessments so made by the assessor, and when so revised, equalized and corrected, the same shall be approved.

Sec. 7. In all cases where the board of equalization shall find it their duty to raise the assessment of any person's property, it shall be their duty to order the county clerk to give the person written notice, who rendered the property, that they desire to raise the value of property rendered by him. It shall be the duty of the board of equalization to cause the county clerk to give ten days notice before their meeting by publication in some newspaper published in the county, but in case there be none published in the county, then by posting a written or printed notice in each justice's precinct, one of which must be at the court house door.

Approved March 22, 1879.

Takes effect ninety days after adjournment.

CHAPTER XLVIII.—An act to create the thirty-second judicial district, prescribing the times of holding the district courts therein, and providing for the appointment of a district judge for said district.

Section 1. Be it enacted by the Legislature of the State of Texas, That the counties of Washington, Lee and Burleson shall be, and they are hereby constituted, the thirty-second judicial district of Texas.

Sec. 2. That the district courts in the counties comprising the said thirty-second judicial district shall be held as follows: In the county of Washington on the first Mondays in March, July and November, and may continue in session six weeks; in the county of Lee on the first Mondays in January, May and September, and may continue in session four weeks; in the county of Burleson on the first Mondays in February, June and October, and may continue in session four weeks.

Sec. 3. That all process heretofore issued or served, returnable in any of the counties of said judicial district as heretofore prescribed by law, shall be considered as returnable at the times herein prescribed; and all such process is hereby legalized and validated as if the same had originally been made returnable at the times herein specified.

Sec. 4. That immediately after the passage of this act the governor shall appoint some suitable person as judge of said district, who shall be commissioned and hold his office until the next general election for state and county officers, and until his successor shall be elected and qualified.

Sec. 5. That an imperative public necessity and emergency exists that this act pass and take effect at once; it is therefore enacted that the rules requiring this act to be read on three several days be suspended, and that this act take effect and be in force from and after its passage.

Sec. 6. That all laws and parts of laws in conflict with this act are hereby repealed.

Approved March 22, A. D. 1879.

Takes effect from and after its passage.

CHAPTER XLIX.—An act for the relief of all persons whose lands have been sold for taxes and bought in by the state.

Section 1. Be it enacted by the Legislature of the State of Texas, That all persons whose lands have been sold and been bought in by the state, shall have the same restored to them, if in twelve months from the passage of this act said parties shall pay the original taxes thereon, with interest at the rate of eight (8) per centum per annum from date of sale, and the accrued costs thereon, under such rules and regulations as shall be prescribed by the comptroller of the state.

Approved March 22, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER L.—An act to better secure the collection of taxes.

Section 1. Be it enacted by the Legislature of the State of Texas, That all real and personal property held or owned by any person in this state shall be liable for all state and county taxes due by the owner thereof, including taxes on real estate, personal property and poll tax; and the collector of taxes shall levy on any personal or real property to be found in his county to satisfy all delinquent taxes, any law to the contrary notwithstanding.

Approved March 24, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER LI.—An act supplemental to and amendatory of "An act to enable part owners of land to obtain partition thereof and for other purposes," passed March 5, 1840.

Section 1. Be it enacted by the Legislature of the State of Texas, that if the plaintiff, his agent or attorney, at the commencement of any suit, or during the progress thereof, for the partition of land, shall make affidavit that an undivided portion of the land described in plaintiff's petition in said suit is owned by some person or persons unknown to affiant, the clerk of the court shall issue a citation to the proper officer, which shall contain a brief statement of the nature of the suit, and a description of the interest of the unknown owner or owners, commanding said officer to summon such unknown owner or owners, by making publication of the citation in some newspaper in the county where the writ issued, if there be a newspaper published in said county, but if not then in the nearest county where a newspaper is published, for four successive weeks previous to the return day of such process; when such notice is given and no appearance is entered within the time prescribed for pleading, the court shall appoint an attorney to defend in behalf of such unknown owner or owners, and proceed as in other cases where service is made by publication; and it shall be the special duty of the court in all such cases to see that its decree protects the rights of the unknown parties thereto; and the judge of the court shall fix the fee of the attorney so appointed, which shall be entered and collected as costs against said unknown owner or owners.

Approved March 24, A. D. 1879.

Takes effect ninety days after adjournment.

(1346)

CHAPTER LII.—An act to provide for the organization of the state penitentiaries, and to regulate the management of the convicts therein.

Section 1. Be it enacted by the Legislature of the State of Texas, That the governor shall appoint, by and with the advice and consent of the Senate, three resident directors to be styled "directors of penitentiaries," who shall hold their offices for the term of two years. If a vacancy occur in either of said offices during a recess of the Senate, such vacancy may be filled by executive appointment for the unexpired term; provided, no one shall be appointed or retained as director who is, or becomes directly or indirectly interested in the hiring or working of any convict force.

Sec. 2. Each of said directors, before entering upon the duties of their office, shall take and subscribe the oath prescribed by the constitution for all officers of the government, which oath shall be filed in the office of the secretary of state.

Sec. 3. The directors of penitentiaries shall, in conjunction with and by the approval of the governor, take such measures, and adopt such rules and regulations not inconsistent with the laws of the state, for the control and management of the several penitentiaries and the convicts thereto belong, as they may deem proper and necessary; and such rules and regulations shall be binding upon all officers of penitentiaries, guards, employes, hirers of convict labor, and upon all others in any way connected with penitentiaries and their management, or with the convicts either within or without the walls thereof.

Sec. 4. The authority given the directors in the preceding article to establish rules and by-laws is intended to supply any defect in this act with regard to prison discipline, and to provide for such details as are not embraced therein, and for such contingencies as may at any time arise concerning the management of the penitentiaries and their proper and successful operation. They shall be made with a view to carry out the general principles on which the penal laws are founded, and the designs for which the penitentiary system is established.

Sec. 5. All rules and regulations and by-laws established by the directors shall be printed in pamphlet form, for the information and guidance of those connected with the management of penitentiaries or convict labor; and such parts of said rules as refer to the duties of subordinate officers, and government of convicts, shall also be printed in suitable form and posted in the cells and conspicuous places about the prison, for the information of all concerned.

Sec. 6. The directors of penitentiaries shall meet at least three times per month, at such place as they may agree upon, for conference upon matters pertaining to the penitentiaries; and at the close of each regular monthly meeting they shall report in writing to the governor the general condition and management of the convicts, with such other information concerning penitentiary matters and operations as they may deem important. They shall have a suitable book in which they shall keep a full and complete record of all their proceedings, and all orders made by them.

Sec. 7. The directors shall also make such special reports to the governor as he may at any time require, upon any matters connected with the penitentiaries; and they shall report once in each month to the governor of this state, especially in regard to the food and clothing furnished the con-

victs, and whether the food is proper and healthy, and sufficient in quantity; also, whether the clothing is of the proper kind for comfort and health, and suited to the season. They shall also report in regard to attention by physicians.

Sec. 8. The directors shall at all times have access to the penitentiaries, and shall make an inspection of the penitentiary at least three times per month.

Sec. 9. It shall be the duties of the directors, or either of them, to examine into all complaints preferred by a convict, and if found substantial to take immediate measures for the correction of the abuse. For this purpose they are authorized to administer oaths, summon and examine witnesses, and to take such other steps as they may deem necessary to ascertain the truth with respect to any matter about which they have a right to inquire. They are also authorized to administer oaths in all other matters pertaining to the administration and management of penitentiaries and convicts.

Sec. 10. The directors shall also examine into any improper conduct alleged against the superintendent or other officer or employe of either of the penitentiaries, or the lessee of either penitentiary, or any hirer of convicts, and report the same to the governor; and they may at discretion remove any officer or employe of either penitentiary who may have been appointed by them or under their authority.

Sec. 11. The directors shall report to the governor biennially on or before the first Monday in November, a comprehensive review of the government, discipline, condition and transactions of the several penitentiaries for the preceding two years, or since the date of their last similar report; and shall make such suggestions as they may deem advisable, relative to any improvements or changes in the plans of the penitentiaries or their management, by reason of which they may be better adapted to carry out the objects for which they were designed. And they shall transmit therewith the reports of the superintendent and physicians of each penitentiary, and all of said reports shall be printed and laid before the Legislature.

Sec. 12. Whenever the term "directors" is used in this act without qualifications, it means the three directors, or any two of them.

The Superintendent and His Duties.

Sec. 13. The governor shall appoint, by and with the advice and consent of the Senate, a superintendent and an assistant superintendent for each penitentiary, who shall hold his office for the term of two years, and until the appointment and qualification of his successor. In case of a vacancy in said offices the same may be filled by executive appointment for the unexpired term.

Sec. 14. The superintendent shall have general supervision and control over all convicts imprisoned in the penitentiary for which he is appointed, and over all overseers and guards connected therewith; but in case of a lease of the penitentiary such control shall not extend to the labor of the convicts except as may be hereinafter specially prescribed. He shall see that all officers under his supervision discharge their several duties, and may discharge any subordinate officer or employe for official misconduct or failure to perform his duty.

Sec. 15. As the executive officer of the penitentiary he shall have all powers necessary to a discharge of his duties, subject only to the instructions of the directors or governor, and he shall be responsible for the discipline of the prison proper and the manner in which it is enforced.

Sec. 16. The superintendent shall reside within the penitentiary, provided there be a suitable house or room for such residence; and shall not absent himself therefrom unless upon business connected with the duties of his office, or with the permission of the directors or governor.

Sec. 17. He shall visit frequently the cells of the convicts and other places within the walls of the penitentiary where they may be engaged at labor, and shall see that they are humanely and properly treated, and shall give attention to all complaints made by a convict against any officer, employe or lessee of the penitentiary. He shall at all suitable times converse in a kindly manner with the convicts, and use his best endeavors to produce in them a spirit of reformation.

Sec. 18. The superintendent shall keep the records of the penitentiary. He shall keep as far as practicable a record of the general conduct of each prisoner, noting all punishments, changes and incidents of importance that may occur during his confinement. He shall receive and receipt for all criminals that may be brought to the penitentiary in accordance with law; and shall keep a register of all such criminals received, showing the name and registered number of each criminal (giving his classes if any), the sex, age, height, color of the eyes and hair, place of nativity, previous occupation, time of conviction, for what period of confinement, county from where sent, date of reception and previous habits, if known.

Sec. 19. The superintendent shall make a written report to the directors biennially on or before the first day of November, in which he shall distinctly set forth the number of convicts committed to the penitentiary since his last report, the month in which received, the name, age, sex and place of nativity, crimes for which sent, habits, education, marital relations, time of imprisonment, from what counties sent, the number of deaths, escapes, pardons and discharges, the whole number therein confined, the various occupations in which they are employed, and the number employed in each, amount of vouchers issued and accounts approved or passed upon. He shall also make a monthly report to the governor, showing the management of the penitentiary and the character of the treatment and discipline of the convicts. Said report shall show: 1st—the number of convicts received since last report. 2d—The number and name of convicts discharged, pardoned, escaped, died and recaptured. 3d—How the convicts have been fed and clothed. 4th—The number who have been sick during the month. 5th—The number of convicts within the walls and the names of places outside the walls where convicts are employed, and number at each place.

Sec. 20. In cases of escape the superintendent may, with the approval of the governor, offer a reward not exceeding one hundred dollars for the apprehension and return of a convict, which shall be paid to the person entitled thereto on the certificate of the superintendent, approved by the governor, out of the appropriation for the arrest of fugitives from justice.

Sec. 21. During the absence of the superintendent and the assistant superintendent, or the inability of each to act, the directors may designate some proper person to act in his stead.

Sec. 22. The superintendent shall make out and furnish monthly to the governor, to the comptroller and to the lessees, an account showing the amount due the state on account of the leasing of the penitentiary or hire of convict labor. He shall examine and pass upon all accounts connected with the penitentiary of which he is superintendent, and in which

the state is sought to be charged, including accounts for repairs and improvements, reception and transportation of convicts; he shall not approve any account until it is first sworn to, nor shall he approve any account for transportation of prisoners, unless the proper commitment papers are presented, nor shall he allow for any guard used in the transportation of prisoners, unless the same be authorized by the district judge, which authority must accompany the commitment papers.

Sec. 23. The superintendent is authorized to administer oaths in all matters connected with the penitentiary and its management, and to all parties presenting claims such as mentioned in the preceding article, and for this purpose he shall be provided with a seal of office, whereon shall be engraved in the centre a star of five points and the words "State Penitentiary, Texas," around the margin, the blank to be filled with the name of the place where the penitentiary is located, with which seal he shall authenticate all his official acts.

Sec. 24. The superintendent shall receive and examine all communications to and from convicts.

Sec. 25. The assistant superintendent shall visit, at least once in each month, all prison camps or other places where convicts are employed, and examine into all complaints preferred by a convict or by citizens, and if found substantial, to take immediate measures for the correction of the abuse. For this purpose he is authorized to administer oaths, summon and examine witnesses, and take such other steps as he may deem necessary to ascertain the truth with respect to any matter about which he had a right to inquire; but the authority thus given to the assistant superintendent shall be exercised in conformity with the law, and such regulations as may be so established by the directors of the penitentiary, and then only in correcting abuses and removing complaints in outlying camps, or other places where convicts are employed outside of the prison walls.

Sec. 26. The assistant superintendent shall make written reports to the superintendent once at least each month, showing the management, condition and discipline of all convicts outside the prison walls; the number and names of convicts in each of the camps or other places where they may be employed, how they have been fed and clothed during the month, the names and the number of those who have escaped, died or been recaptured, and the number who have been sick during the month.

Sec. 27. The assistant superintendent shall receive an annual salary of twelve hundred dollars and his actual traveling expenses while engaged in the duties of his office, not to exceed the sum of six hundred dollars in any one year.

The Physician and His Duties.

Sec. 28. The directors for penitentiaries shall appoint for each penitentiary a physician who shall hold his office for the term of two years, unless sooner removed by the directors for cause.

Sec. 29. The physician shall visit the penitentiary daily, and as much oftener as may be necessary for the purpose of ascertaining the health of the criminals and giving proper medical attention to such as are sick.

Sec. 30. He shall attend immediately upon any case of sickness among the criminals when notified thereof. He shall, when required, examine any convict for the purpose of ascertaining whether he is physically able to perform the work at which it is proposed to place him, and make report of the result of such examination to the superintendent.

Sec. 31. He shall notify the superintendent of each case in which, on

account of ill health, it may be deemed advisable to remove a convict from the penitentiary to some healthy locality, where he shall be made as comfortable as practicable; and he shall cause any convict suffering under a contagious or infectious disease to be removed, so that other criminals may not suffer by such contagion or infection.

Sec. 32. If directions be given by the physician for the removal from the penitentiary of any person suffering under a contagious or infectious disease, such person shall be immediately removed to some place and be there retained until he recover or die.

Sec. 33. The physician shall inquire into the mental as well as the bodily condition of each convict, and give such advice to the superintendent as he may deem proper respecting the mode of treatment of any convict who may appear to be materially affected either in body or mind, and such advice shall be followed by the superintendent unless the directors shall otherwise direct.

Sec. 34. Convicts, when sick, shall be kept in the hospital, except when the physician may otherwise direct; and the hospital and all persons employed therein shall be under the management and control of the physician. Nurses may be employed by the physician, with the approval of the directors, when required in case of sickness.

Sec. 35. The treatment prescribed by the physician for convicts suffering with disease shall in all cases be serietly followed, and only such diet shall be given a sick convict as the physician may direct.

Sec. 36. A convict afflicted with serious illness or dangerous disease shall not, while in that condition, be discharged from the penitentiary, except upon his own request, although his time of imprisonment may have expired.

Sec. 37. The physician shall keep a journal in which he shall enter the name of each convict treated by him or under his direction in or about the penitentiary, noting when he was taken sick, with what disease afflicted, general treatment, date of his discharge from [the] hospital, or from further treatment, with such other remarks as he may deem important.

Sec. 38. The physician shall make a written report to the directors biennially, on or before the first day of November, in which he shall state: 1st—The number of cases of sickness among the convicts for the two years past. 2d—With what disease they were afflicted. 3d—The number of deaths among the convicts, and with what disease they died. 4th—The number and character of all surgical operations performed. 5th—The general sanitary condition of the penitentiary. 6th—Such suggestions as he may deem important to the improvement of the sanitary condition of the institution, or conducing to the physical welfare of the convicts. 7th—Any facts or incidents coming under his observation that he may deem of general interest to the public or of benefit to science. He shall also report quarterly to the directors, or oftener if required, the sanitary condition of the penitentiary.

The Chaplain and His Duties.

Sec. 39. The directors shall appoint a chaplain for each penitentiary, who shall hold his office for the term of two years, unless sooner removed by the directors.

Sec. 40. He shall preach at least once every Sunday to the convicts, and shall visit them at convenient times during their hours of leisure each week, and use all the influence he may possess to inculcate in them sound principles of religion and morality.

Sec. 41. The chaplain shall be ex officio librarian of the penitentiary, and under such regulations as the directors may prescribe shall furnish the convicts with such books, periodicals and publications as it may contain.

Sec. 42. The chaplain shall not in his conversations or discourses with the convicts discuss doctrines merely sectarian, but he shall teach such principles of religion and morality as are common to all christian churches.

Sec. 43. By permission of the physician he may visit convicts in case of sickness, and he shall in all cases be admitted to the bedside of any convict who has been pronounced by any physician as beyond reasonable hope of recovery.

Sec. 44. Preachers, ministers and priests of all religious denominations shall by the consent of the superintendent have access to the penitentiary, and may, at any reasonable time, be allowed to preach to the convicts; and a convict shall, at all proper time[s], be permitted to receive visits from and hold converse with any preacher, minister or priest he may desire to see.

The Under Officers, Overseers and Guards.

Sec. 45. The directors shall appoint, upon the nomination of the superintendent, such number of under officers, overseers and guards for each penitentiary as may be necessary to preserve discipline and prevent escapes. The superintendent may nominate several persons for the same from whom the directors may select; but in case the directors do not approve of nominations made by the superintendent, they may appoint independently of such nomination[s]; provided, that when the penitentiary is leased the lessees shall appoint all under officers and guards, subject to removal at any time by the superintendent on account of inefficiency or misconduct.

Sec. 46. When penitentiaries are being directly operated by the state the directors may also employ such number of skilled workmen, or other employes, as they may deem essential to the successful operation of the institution and to the pecuniary interest of the state.

Sec. 47. All under officers, overseers, guards and employes shall receive such compensation for their services as the directors may prescribe, to be paid by the state on certificate of superintendent, and they shall be subject to removal by the directors, or in their absence by the superintendent, who shall report his action to the directors. This manner of compensation is not applicable when any other mode is provided for at any time by the terms of any lease.

Sec. 48. All under officers, overseers, guards and employes shall be subject to the orders of the superintendent, and shall in all things comply with his directions. Any complaint of ill treatment toward them on his part may be made to the directors, who shall inquire into the same and take such action as the facts may seem to demand; provided, no person shall be employed as a guard who is not a qualified voter of this state.

The Treatment of Convicts and Prison Discipline.

Sec. 49. The various provisions of this act are designed to secure to the convicts moral instruction, to provide for their health and extend to them such comforts as are consistent with their situation, and at the same time to require of them a due attention to their various occupations and a strict observance of the discipline, rules and regulations of the prison.

Sec. 50. If the convict be a female with an infant child, the latter shall be received into the penitentiary with its mother, and there kept until it arrives at the age of four years, when the superintendent shall deliver it, or cause it to be delivered to its relatives, if there be any; if not, to the county judge of the county from which the convict was sent, to be dealt with according to law; and if any child shall be born in the penitentiary, the same course shall be pursued in reference to it as is herein indicated for children brought there.

Sec. 51. Every convict when received into the penitentiary shall be carefully searched and deprived of every article by which an escape might be effected. If money be found upon the person of a convict, it shall be delivered or safely forwarded by the superintendent to the wife or children of the convict, save and except an amount of one dollar per month, which may be retained by the superintendent and spent by him for the benefit of the convict on his written order. If he have no wife or children, it shall be safely kept and delivered to the convict upon his final discharge, save and except the allowance of one dollar per month, to be spent as herein provided.

Sec. 52. The convicts shall be treated with humanity, and a distinction may be made in their treatment, so as to extend to such as are orderly, industrious and obedient, comforts and privileges according to their deserts. Suitable clothing of substantial material and uniform make, and sufficient food of wholesome quality shall be furnished to all; but they are to be allowed no spirituous, vinous or malt liquors, except upon the prescription of the physician.

Sec. 53. Convicts of different sexes shall at all times be kept separate and apart, and no communication shall be allowed between them.

Sec. 54. Convicts sentenced to hard labor shall be kept at work under such rules and regulations as may be adopted by the directors; provided that no labor shall be required of any convict on Sunday, except such as is absolutely necessary.

Sec. 55. No greater amount of labor shall be required of a convict than a due regard for his physical health and strength may render proper, and no convict shall be placed at such labor as the penitentiary physician may pronounce him physically unable to perform.

Sec. 56. Convicts who have been reported by the physician as in a condition of health which requires their removal to some other place, shall be accordingly removed; but in such manner and under such regulations as will prevent escape.

Sec. 57. Convicts who are unable to read or write when admitted to the penitentiary, may receive instruction during lesson hours, under such regulations as the directors may prescribe; and the directors are authorized to employ a competent teacher for that purpose, at such compensation as they may designate, to be paid by the state upon the certificate of the superintendent.

Sec. 58. The rewards to be bestowed upon convicts who evince a purpose of reformation and a disposition to obey the rules of discipline, shall consist of an extension of social privileges, permission to read and write, and such other mitigations of punishment as may not be inconsistent with proper discipline. No written communication from a convict shall in any case be sent out without the permission of the superintendent, nor until it has been read by him. Commutation of time for good conduct shall be granted by the superintendent, with the approval of the directors, as follows: for each month in which no charge of misconduct is sustained,

1st year, two days per month, twenty-four days per year; 2d year, three days per month, thirty-six days per year; 3d year, four days per month, forty-eight days per year; 4th year, five days per month, sixty days per year; 5th year, six days per month, seventy-two days per year; 6th year, seven days per month, eighty-four days per year; 7th year, eight days per month, ninety-six days per year; 8th year, nine days per month, one hundred and eight days per year; 9th year, ten days per month, one hundred and twenty days per year; 10th year, fifteen days per month, one hundred and eighty days per year; all succeeding years there shall be allowed fifteen days per month. For each sustained charge of misconduct the commutation for one month in that year to be forfeited, and for any mutinous conduct, conspiracy or escape, all good time up to that date shall be forfeited.

Sec. 59. The punishments that may be prescribed by the directors shall consist of closer imprisonment, confinement in irons, deprivation of privileges, and other punishments of like character; provided, he shall not be deprived of his food at regular hours. Whipping shall not be resorted to, except upon the special order of the directors in particular cases, nor shall a convict's head be shaved in any instance.

Sec. 60. When a convict is entitled to his discharge by reason of the expiration of his term of imprisonment the superintendent shall furnish him with a written discharge, giving name, when sentenced, from what county, and such other description as may be practicable, affixing thereto his name and seal of office. He shall see that he is furnished with a plain suit of citizen's clothing; and, also, that he is given five dollars in money, and transportation on railroads to nearest depot to county seat from whence sentenced; provided, that such transportation shall not be more than fifteen dollars; and, provided further, that if said convict prefers he may receive transportation ticket for same distance in some other direction than his county from whence sentenced; and, provided further, that this allowance is not intended to apply to any convict who may be pardoned out of said penitentiaries.

Salaries of Officers.

Sec. 61. The directors of the penitentiaries shall each receive an annual salary of two hundred and fifty dollars and no more.

Sec. 62. The superintendents of the penitentiaries shall each receive an annual salary of fifteen hundred dollars and no more.

Sec. 63. The physicians of the penitentiaries shall each receive an annual salary of five hundred dollars and no more.

Sec. 64. The chaplains of the penitentiaries shall each receive an annual salary of two hundred and fifty dollars and no more.

Visits to the Penitentiaries.

Sec. 65. The governor and all other of the executive and judicial departments of the government, and members of the Legislature, shall be admitted into the penitentiary at all proper hours, for the purpose of observing the conduct and operations of the institution.

Sec. 66. Any other person may visit the penitentiary, with the permission of the superintendent or some one of the directors, but no conversation shall be held with a convict by any visitor other than the governor, except by permission of the superintendent.

Sec. 67. The governor and all other officers named in section sixty-five may hold conversations with the convicts apart from the superintendent or any other officer, and so may directors or either one of them.

Lessees of the Penitentiaries.

Sec. 68. Whenever practicable penitentiaries may be operated under a lease, in accordance with the regulations prescribed in this act.

Sec. 69. Each lease of the penitentiary shall be for some definite term, not to exceed fifteen years, after public notice by advertisement in at least three newspapers of the state, and shall be executed by the governor, upon such terms and conditions as he may deem best for the public interest, special regard being had as far as practicable to the exaction of the penalty imposed by law on each convict, and to the protection, well being and humane treatment to which a convict is entitled at the hands of the state.

Sec. 70. No lease shall be made by which the control of the convict, except as to a reasonable amount of labor, shall pass from the state or its officers, and the management of criminals shall, in all cases and under all circumstances, remain under the control of the state and its officers.

Sec. 71. For the purpose of enforcing any regulation touching the physical capacity of convicts to perform certain kinds of labor, or regulation requiring certain convicts to be kept within the prison walls, the directors may require the lessees of the penitentiary to change convicts from one kind of labor to another, and to remove convicts from any point outside to within the prison walls.

Sec. 72. The directors may also make and change at pleasure, with the approval of the governor, all rules for the discipline and punishment of convicts, and how they shall be fed, clothed, worked, instructed or guarded.

Sec. 73. Every lease shall be subject to the approval or revocation of any Legislature of the state thereafter convened, and to any and all existing laws touching the penitentiaries and convicts, or any others thereafter passed, and any failure on the part of a lessee to carry out, in good faith, any of the terms of his lease, or to comply with any of the conditions of any bond he may have executed, shall ipso facto operate as a forfeiture of such lease, and the governor may so declare, and at once resume control of the penitentiary; and the provisions of this act shall apply to the present lease of the penitentiary at Huntsville, but should not be construed to increase or add to the pecuniary responsibilities or obligations of the present lessees and their sureties as they stood when they executed their bond to the state.

Sec. 74. Any lease made by the governor shall be subject to the reservations to the state in the four preceding articles contained, whether specified in the lease or not, and the state shall not, under the guise of contract, or in any other manner, part with the right to direct how, at any time and under all circumstances, its convicts shall be lodged, fed, clothed, worked and treated.

Sec. 75. The right to hire out convicts and to operate them outside the penitentiary walls is expressly given, but no convict shall be hired or put to labor outside the walls when his labor can be utilized within the walls; and the governor and directors may prescribe what class or classes of convicts may be hired out or put to labor outside the prison walls, and such other regulations pertaining to the same as they may deem proper; provided, that on the first day of January, 1880, or as soon thereafter as practicable, the governor and directors shall require all convicts to be confined at labor inside the walls of one of the penitentiaries.

Sec. 76. In case of a lease of any penitentiary, the lessee shall execute and deliver to the governor a bond in an amount to be designated by

him, with two or more good and sufficient sureties to be approved by him, payable to the State of Texas, and conditioned that said lessee shall faithfully comply with the terms of his lease, which bond shall be deposited in the office of the secretary of state.

Sec. 77. Whenever a penitentiary is leased, an inventory and valuation of all the materials, machinery and property of every description belonging to the penitentiary, except the land, shall be made by appraisers, one of whom shall be appointed by the governor, and the other by the lessee, and in case of disagreement between the appraisers, they shall select an umpire. Upon completion of the appraisalment and its return to the governor, under oath, the property shall be receipted for to the governor at its appraised value.

Sec. 78. Upon the termination of any lease by the expiration of its term or otherwise, the lessee shall quietly and peacefully surrender and return to the state all the property belonging to the penitentiary; a like inventory and valuation shall then be made of all the property belonging to the state, or to the possession of which it may be entitled under the terms of the lease. For all property returned in good order and repair the lessee shall be credited with the value thereof, as fixed by appraisalment when he received it; for all property returned not in good order and repair, the lessee and his sureties shall be charged with such amount, to be estimated by appraisers, as will be necessary to put the same in good order and repair; for all property received from the state and not returned, the lessee and his sureties shall pay the value thereof, as fixed by appraisalment when he received it, except that the lessee shall not pay for property destroyed by fire not occasioned by the fault of himself or his employees.

Sec. 79. The lessee shall have the use of all land, buildings, machinery, tools and other property connected with the penitentiary, and may make improvements and additions to the penitentiary with the approval of the governor and the directors, and under such limitations as may be fixed by them; and such lessee shall be allowed a reasonable compensation for such improvements as are of a permanent nature, at the expiration of the lease, the amount of such compensation to be determined by the governor and directors; provided, if any improvements are made by a lessee with the approval and consent of the governor and directors, and said lessee, by the terms of his lease, has to pay any moneys before the termination of his lease, he shall be credited with said improvements: first, on any funds that may be due the state; or, second, out of first moneys which may become due the state on account of lease.

Sec. 80. The lessee shall have the right to introduce into the penitentiary such skilled labor as he may deem proper and necessary for the efficient operation of convict labor and to superintend and instruct the same.

Sec. 81. The lessee shall furnish everything necessary for the support and maintenance of the penitentiary leased, including the salaries of all officers, and the compensation of all employees; but the salaries of officers shall be paid by the lessees into the state treasury, and there held as a special fund for the payment of said officers.

Sec. 82. The governor, in the execution of any lease, may make such other stipulations and agreements, not inconsistent with the provisions of this act, as he may deem to the interest of the state or essential to its protection, and such stipulations and agreements shall be binding in all

respects upon the lessee; and the bond given shall be construed to extend to and include the performance of such stipulations and agreements, in the same manner as if the duties were imposed by positive law.

Sec. 83. No superintendent shall be appointed for the East Texas penitentiary, at Rusk, until convicts are confined therein.

Sec. 84. The office of commissioner of the penitentiary, now or heretofore existing, is hereby abrogated.

Sec. 85. The fact that the large number of convicts now within and without prison walls, and the changed condition of things incident to the leasing system, renders the laws heretofore passed wholly inadequate, constitutes an emergency and an imperative public necessity which justifies the suspension of the constitutional rule requiring this bill to be read on three several days; therefore, the said rule is hereby suspended, and this act shall take effect and be in force from and after its passage.

Approved March 24, A. D. 1879.

Takes effect from and after its passage.

CHAPTER LIII.—An act in relation to assignments for the benefit of creditors, and to regulate the same and the proceedings thereunder.

Section 1. Be it enacted by the Legislature of the State of Texas, That every assignment made by an insolvent debtor, or in contemplation of insolvency, for the benefit of his creditors, shall provide, except as herein otherwise provided, for a distribution of all his real and personal estate, other than that which is by law exempt from execution, among all his creditors in proportion to their respective claims, and however made or expressed, shall have the effect aforesaid, and shall be construed to pass all such estate, whether specified therein or not, and every assignment shall be proved or acknowledged and certified and recorded in the same manner as is provided by law in conveyances of real estate or other property.

Sec. 2. The debtor shall annex to such assignment an inventory containing the following statement:

1. A full and true account of all the creditors of such debtor or debtors.

2. The place of residence of each creditor if known to such debtor or debtors, and if not known, that fact to be so stated.

3. The sum owing to each creditor, and the nature of each debt or demand, whether arising on written security account or otherwise executed.

4. The true cause and consideration of such indebtedness in each case, and the place where such indebtedness arose.

5. A statement of any existing judgment, mortgage, collateral or other security for the payment of any such debt.

6. A full and true inventory of all such debtor's estate at the date of such assignment, both real and personal, in law or in equity, and the incumbrances existing thereon, and of all vouchers and securities relating thereto, and the value of such estate according to the best knowledge of such debtor or debtors.

7. An affidavit shall be made by such debtor or debtors, and annexed to and delivered with such inventory or schedule, that the same is in all respects just and true according to the best of such debtor or debtors'

knowledge and belief; nothing contained in this act shall affect the assignor's right to retain all such of his property as is by the constitution and laws of this state exempt from execution, but such list and inventory shall not be conclusive except as against the debtor making the same.

Sec. 3. Any debtor, desiring so to do, may make an assignment for the benefit of such of his creditors only as will consent to accept their proportional share of his estate, and discharge him from their respective claims, and in such case the benefits of the assignment shall be limited and restricted to the creditors consenting thereto; the debtor shall thereupon be and stand discharged from all further liability to such consenting creditors on account of their respective claims, and when paid they shall execute and deliver to the assignee for the debtor, a release therefrom.

Sec. 4. Every assignee shall, within thirty days after the execution of the assignment, give public notice of his appointment in some newspaper printed in the county where the assignor resides, or where his principal business was conducted, or, if no newspaper be printed therein, then in the newspaper published nearest to such place of residence or business, and which notice shall be published for three successive weeks, and so far as he can, the assignee shall also give personal notice, or notice by mail, to each of the creditors of the assigning debtor.

Sec. 5. The creditors of the assignor consenting to such assignment, shall make known to the assignee their consent in writing, within four months after the publication of the notice provided in the preceding section, and no creditor not assenting shall receive or take any benefit under the assignment; provided however, that any creditor who had no actual notice of such assignment, may make known his assent at any time before any distribution of assets under the assignment has been made; and provided further, that the receipt by a creditor of any portion of his claim from the assignee, shall be conclusive evidence of the assent of such creditor to the assignment.

Sec. 6. The assignee shall forthwith, after the execution and delivery of the deed of assignment, cause the same to be recorded as herein provided, and shall execute a bond with sureties, to be approved by the judge of the district or county court, conditioned that he will faithfully discharge his duties as such assignee, and that he will make proportional distribution of the net proceeds of said estate among the creditors entitled thereto, which bond shall be payable to the State of Texas, and shall be filed with the county clerk of his county, and shall inure to the benefit of the assignor and the creditor or creditors, who may maintain an action against such assignee thereon, in his or their own name, jointly or severally, for any breach thereof or violation of this law, by reason of which such assignor or creditor shall sustain damage, and upon the filing of said bond, the assignee shall take possession of the assigned property and proceed to execute the assignment.

Sec. 7. Every creditor, consenting to an assignment shall, within six months from the time of the first publication of the notice of the appointment of the assignee, file with such assignee a distinct statement of the particular nature and amount of his claim against the debtor, which shall be supported by an affidavit of the creditor, his agent or attorney, that the statement is true, that the debt is just and that there are no credits or offsets that should be allowed against the claim, except as shown by the statement, and no creditor shall take any benefit under any assignment whatever who neglects to file such statement.

Sec. 8. Any creditor not consenting to the assignment may garnishee the assignee for any excess of such estate remaining in his hands, after the payment to the consenting creditors, the amount of their debts and the costs and expenses of executing the assignment.

Sec. 9. All property conveyed or transferred by the assignor, previous to and in contemplation of the assignment, with the intent or design to defeat, delay or defraud creditors, or to give preference to one creditor over another, shall pass to the assignee by the assignment, notwithstanding such transfer; and the assignee, or in case of his neglect or refusal, any creditor or creditors may in his name, upon securing such assignee against cost or liability, sue for, recover, collect and cause the same to be applied for the benefit of creditors as other property belonging to the debtor's estate in the hands of the assignee; but if it shall appear in such action that the purchaser of any such property bought the same of the assignor in good faith and for a valuable consideration, and without any reason to believe that the debtor was conveying or transferring the same with the intent or design aforesaid, such purchaser shall be held to have acquired as against the assignee and creditors aforesaid, a good and valid title to such property.

Sec. 10. No assignment shall be declared fraudulent or void for want of any inventory or list as provided herein; but if such list and inventory be not annexed and verified as provided in this act, it shall be prima facie evidence that the assignor has secreted and concealed some portion of the property belonging to his estate from his assignee, unless upon the demand of the assignee or a creditor such verified inventory and list be furnished to the assignee; and if any assignee or creditor shall have reason to believe that any debtor has concealed any of his property or estate for the purpose of defrauding his creditors, it shall be the duty of the district or county judge, upon application of said assignee or creditor, to cause such debtor to appear before him, either in vacation or term time, and disclose under oath, any knowledge or information he or she may have relative to any such concealment.

Sec. 11. If any assignor shall secrete or conceal from his assignee any portion of the property belonging to his estate other than that which is exempt from execution, or shall, previous to and in contemplation of the assignment transfer any property with the intent or design to defraud his creditors, such assignor shall be adjudged guilty of a felony, and upon conviction thereof, shall be punished by imprisonment and labor in the penitentiary for not less than two nor more than five years.

Sec. 12. The statement of a creditor, verified and filed with the assignee as hereinbefore provided, shall be sufficient prima facie evidence to justify the assignee in allowing it as a valid claim against the estate, and it shall be so allowed, and such creditor entitled to his proportional share of the debtor's estate, unless the assignor, or other creditor disputing the same shall, within sixty days after the expiration of the time within which the creditors are required by this act to file their statements, institute an action in the district or county court of the proper county to set aside the allowance and to restrain the payment thereon, for which purpose the assignor or any disputing creditor or creditors may have a remedy, jointly or severally by injunction or other proper action to try the justness and validity of the disputed claim, and if it appears that an action could not successfully be maintained at law by the creditor against the assignor upon such claim or any disputed part thereof, the

same shall be disallowed, in whole or in part, as the case may be, and the assignee restrained from paying the same, or such portion thereof as may be disallowed; and for the information of the assignor and creditors, it is further provided, that the assignee shall allow them, or any of them, to take a copy of any creditor's statement of his claim that has been filed with such assignee as herein provided.

Sec. 13. Claims that are not due may be allowed at their present value by discounting them at the rate of interest mentioned in the contract, if any, otherwise at the legal rate, and if any creditor holds collateral security of less value than his debt, the value thereof may be estimated by the assignee, and only the difference between such sum and the debt shall be allowed.

Sec. 14. If any assignee becomes unsuitable to perform the trust, refuses or neglects so to do, or mismanages the property, the county judge or judge of the district court may, upon the application of the assignor, or one or more of the creditors, upon reasonable notice, to all parties interested, by publication or otherwise, as such judge may direct, remove such assignee and in case of vacancy by death or otherwise shall appoint another in his place, who shall have the same powers and be subject to the same liabilities as the original assignee.

Sec. 15. Whenever any assignee shall have in his hands funds sufficient to pay ten per cent. of the debts due by the assignor, he shall make a pro rata distribution of the same among said creditors, and the assignee shall be entitled to reasonable compensation for his services and his necessary costs and expenses, including also his attorneys' fees, all to be allowed, in case of difference between the parties, by the county judge or judge of the district court.

Sec. 16. Whenever any assignee shall have fully performed the duties of his trust and desires to be finally discharged therefrom, he may make a report of his proceedings under the assignment, showing the moneys and assets that have come into his hands, and how the same have been disbursed and disposed of, the truth of which shall be verified by his affidavit, and such report shall thereupon be filed and recorded in the office of the county clerk of the county in which the assignment is recorded, and no action shall be brought against such assignee by reason of anything done by him under the assignment as shown by his report, unless the same be brought within twelve months from the time of the filing thereof, as aforesaid; and any moneys or funds on hand, shall be deposited in the district court, subject to be paid out upon the decree of said court.

Sec. 17. Every mortgage, deed of trust, or other form of lien attempted to be given by the owner of any stock of goods, wares or merchandise daily exposed to sale, in parcels, in the regular course of the business of such merchandise and contemplating a continuance of possession of said goods, and control of said business, by sale of said goods by said owner, shall be deemed fraudulent and void.

Sec. 18. Any attempted preference of one creditor or creditors of such assignor, shall be deemed fraudulent and without effect.

Approved March 24, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER LIV.—An act to authorize counties, cities and towns to scale and fund their indebtedness, and for raising means to pay the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That all counties, incorporated cities and towns in this state owing debts, are hereby authorized to fund the same in bonds of said counties, cities and towns, in such sums and at such rate of interest as may seem best to the authorities of said counties, cities and towns; provided, that in no case shall the rate of interest be greater than six per cent. per annum; and, provided further, that this act shall not apply to any indebtedness of any counties, cities or towns made and undertaken since the eighteenth day of April, 1876; provided further, that no city shall issue bonds to a greater amount than is authorized by its charter, where a limit is placed on the issue of bonds in its charter.

Sec. 2. All the counties, incorporated cities and towns of this state, are hereby authorized to scale their debts of every description, bonded or otherwise, by adjustment and compromise with their creditors, and may issue bonds as provided for in section one of this act, in any sums and at any rate of interest not greater than six per cent. per annum, in settlement or compromise with their said creditors, or with any one or more of them.

Sec. 3. Said counties, cities and towns, in funding and scaling their said indebtedness made and undertaken before said eighteenth day of April, 1876, as herein provided, shall provide a suitable sinking fund of two per cent. per annum, to be applied to the payment of the principal of the bonds issued under this act; and shall annually levy and collect a sufficient tax on all the taxable property of said counties, cities, and towns to pay the interest and sinking fund aforesaid; provided, that should there be annually collected more than is necessary to pay the interest already due and the two per cent. sinking fund, such excess and sinking fund may be used in the purchase and cancellation of the bonds for which said sinking fund is set aside.

Sec. 4. Whereas, many counties, cities and towns in this state are suffering under heavy indebtedness, which might be satisfactorily compromised and reduced, an imperative public necessity exists for the immediate passage of this act, and an emergency existing that it immediately take effect, it is enacted that this act take effect and be in force from and after its passage.

Approved March 25, A. D. 1879.

Takes effect from and after its passage.

CHAPTER LV.—An act to regulate the issuance and delivery of land patents, and to secure the payment of fees due thereon.

Section 1. Be it enacted by the Legislature of the State of Texas, That all persons and corporations, to whom patents for land have been granted, and who have not paid the fees thereon, are hereby required to pay the same to the proper lawful officer within sixty days after the passage of this act.

Sec. 2. That if, at the expiration of the sixty days from and after the passage of this act, any patents, upon which any fees may be due the

state, remain in the office of the commissioner of the general land office, it shall be the duty of the said commissioner to add to the amount of said fees a penalty of ten per centum per month for the whole time the fees on said patents may remain unpaid, and to collect the fees and said penalty from the persons or corporations to whom said patents have been granted; and said commissioner shall have no authority to deliver any person or corporation any patent for land, certified copy thereof, field notes or certificates relative thereto until the whole amount of the fees and penalty have been fully paid.

Sec. 3. The State of Texas has, and shall hereafter have, a lien upon all the land conveyed by or included in all patents to land granted by said state, for the amount of all fees, dues and demands due, or to become due, to the state thereon, together with all the penalties prescribed by this act, and said land shall be subject to be sold in satisfaction of said lien.

Sec. 4. That it is hereby made the duty of the attorney general to institute suits in the district court of Travis county, against the owners and grantees of all patents to land upon which fees may be past due six months at the institution of said suit. And it shall be his duty to sue for all fees owing thereon, together with all penalties incurred under the provisions of this act, and the laws of this state, and for all costs of suit, and for foreclosure of the lien of the state; provided, no penalties shall attach until the commissioner of the general land office shall have given notice sixty days to the person entitled to the patent, that the patent has issued, such notice to be given by depositing the same in the postoffice, postage paid, and directed to such person, when the address of the party is known to the commissioner.

Sec. 5. Whereas, there is now and for a long time there has been a large sum of money owing, and past due, to the State by persons and corporations to whom patents for land have been granted; and, whereas, said persons and corporations have, in many cases, wilfully failed to pay the same, therefore an emergency exists that this act take effect and be in force from and after its passage, and it is so enacted.

Approved March 25, 1879.

Takes effect from and after its passage.

CHAPTER LVI.—An act to make appropriation for the support of the Lunatic Asylum for the period beginning January 1, 1879, and ending February 28, 1879.

Section 1. Be it enacted by the Legislature of the State of Texas, that the following sums, or so much thereof as may be necessary, be and the same is hereby appropriated out of any moneys in the treasury not otherwise appropriated for the support of the Lunatic Asylum for the period beginning January 1, 1879, and ending February 28, 1879:

For salary of superintendent.....	\$333 33
“ assistant superintendent	200 00
“ steward	200 00
“ matron	83 33
“ ten male wards at \$25 per month.....	500 00
“ eight female wards at \$25 per month.....	400 00

For salary of four seamstresses at \$20 per month.....	\$160 00
“ five laundresses at \$20 per month.....	200 00
	<hr/>
	\$2,076 66
For salary of one night watchman.....	\$80 00
“ “ day watchman.....	50 00
“ “ gardener.....	60 00
“ two assistant gardeners at \$15 per month.....	60 00
	<hr/>
	\$2,326 66
For salary of one scavenger.....	\$60 00
“ chief cook.....	60 00
“ assistant cook.....	50 00
“ cook for officers, private patients and sick..	50 00
“ carpenter.....	80 00
purchase of medical stores.....	83 33
“ clothing and dry goods.....	666 66
“ bedding.....	33 33
“ groceries, provisions and wood.....	3,333 33
repairs of buildings.....	83 33
miscellaneous.....	158 33
transportation of indigent lunatics from, the state asylum to their homes.....	333 33
	<hr/>
	\$7,318 30

Sec. 2. Whereas, there being no appropriation for the payment of the officers and expenses of the lunatic asylum for the months beginning January 1, 1879, and ending February 28, 1879, the salaries of which officers and the said expenses are now due, there exists an emergency and a public necessity for the immediate passage of this act, therefore this act shall take effect and be in force from and after its passage.

Approved March 25, A. D. 1879.

Takes effect from and after its passage.

CHAPTER LVII.—An act to protect the wool-growing interests of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever, in any county of this state, as many as twenty sheep owners, residents therein, or if there be not as many as twenty sheep owners in said county, a majority of the sheep owners in any county, shall petition the county commissioners' court of the county in which they reside for the appointment of an inspector of sheep, it shall be the duty of said court to appoint some suitable person to such office, said appointment to continue in force during the term of office of said commissioners.

Sec. 2. Said inspector of sheep shall within twenty days after receiving notice of said appointment, and before performing any of the duties of said office, execute a bond, payable to the county judge and his successors in office, to be approved by the county commissioners' court, in a sum to be determined by said commissioners' court, not less than one nor more than two thousand dollars, with at least two good and sufficient sureties, conditioned that he will faithfully discharge and perform all the duties of the office of inspector of sheep.

Sec. 3. It shall be the duty of an inspector of sheep to carefully, minutely and personally examine and inspect, at any time during the year, any flock of sheep in his county which he has information, from two or more creditable sheep owners, is affected with scab, or any infectious or contagious disease. He shall also carefully, personally and minutely examine and inspect any flock of sheep being driven into or through his county, which he has information from two or more creditable sheep owners, or has reason to believe is affected with scab or any infectious or contagious disease.

Sec. 4. For his services in inspecting as provided in section 3 of this act, inspectors of sheep shall be entitled to receive such fees as may be fixed by the commissioners' court of their respective counties, not to exceed in any county more than one cent per head for such sheep inspected; said fees to be paid by the owners of the flock when scab or any infectious or contagious disease is found to exist in said flocks, and by the informants of the inspector when no such disease is found to exist in the flock examined.

Sec. 5. Whenever, upon the examination and inspection hereinbefore provided, of flocks herded or kept in the county, scab, or any infectious or contagious disease is ascertained to exist in any flock, the inspector shall at once notify the owner or person in charge thereof of said fact, and shall prescribe certain limits within which said flock shall be herded until cured.

Sec. 6. It shall be the duty of the owner or person in charge of any flock of sheep herded in the county in which scab, or any infectious or contagious disease is found to exist, immediately upon receiving notice of said fact to notify all owners or persons in charge of flocks of sheep in the vicinity of such fact, and he shall proceed forthwith to take such measures as may be necessary and proper to effect the speedy cure of said flock; and until he shall have obtained a certificate from the inspector of his county, that his flock is entirely cured of scab or any infectious or contagious disease, he shall not remove the same from the limits prescribed by said inspector.

Sec. 7. No sheep owner shall give information to any inspector of sheep that any flock of sheep is affected with scab or any infectious or contagious disease, until he shall have first personally and carefully examined said flock or have been refused the privilege of doing so.

Sec. 8. Any owner or person in charge of any flock of sheep being driven into or through any county of this state shall, when notified by the inspector of said county that his flock is diseased, as contemplated herein, immediately return said flock by the same route as that pursued in entering said county, to the county last passed through, and shall notify the inspector of the county to which he returns said flock of the unsoundness of the same, and shall not remove his sheep out of said county until he shall have received a certificate from said inspector that said flock has been cured of the disease with which it was affected. The inspectors of counties in which flocks of sheep are returned, as prescribed herein, shall, when applied to, prescribe limits within which said flocks shall be herded until a cure is effected.

Sec. 9. Any inspector of sheep who shall fail to comply with any of the provisions of this act, or who shall wilfully and knowingly give a false certificate in any case where he is required to give a certificate, or who shall, wilfully and with intent to harass or put to expense any owner or person in charge of sheep, notify said owner or person in charge that his

flock is diseased, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five nor more than five hundred dollars.

Sec. 10. Any owner or person in charge of sheep, who shall wilfully and knowingly fail to comply with or violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten nor more than one hundred dollars.

Sec. 11. The following counties are hereby exempted from the provisions of this act, viz: Anderson, Angelina, Bosque, Bowie, Cass, Chambers, Cherokee, Collin, Cooke, Dallas, Delta, Denton, Ellis, Fannin, Fayette, Fort Bend, Franklin, Freestone, Grimes, Hardin, Harris, Harrison, Henderson, Hood, Jack, Jasper, Jefferson, Johnson, Kaufman, Lamar, Lee, Liberty, Madison, Marion, Montgomery, Morris, Nacogdoches, Newton, Orange, Panola, Parker, Polk, Rains, Red River, Rusk, Sabine, San Augustine, San Jacinto, Shelby, Somervell, Tarrant, Titus, Trinity, Tyler, Van Zandt, Wood, Walker, Waller, Wharton, Young, and the unorganized counties attached to Jack and Young counties for judicial purposes. The counties of Clay, Montague and Wise, together with the unorganized counties attached to the same for judicial purposes, are also exempted from the provisions of this act.

Approved March 25, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER LVIII.—An act to amend ‘an act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas,’ passed at the present session of the Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That article 430a, title 13, chapter 5 of the above recited act shall be so amended as to hereafter read as follows, to wit:

Article 430a. That the following counties are hereby exempt from the provisions of sections 426, 427, 428 and 429 of this chapter, to wit: Sabine, San Augustine, Shelby, Titus, Franklin, Bosque, Hood, Somervell, Delta, Red River, Hunt, Rockwall, Henderson, Rains, Wood, Coryell, Hamilton, Brown, Coleman, Runnels, Johnson, Harrison, Cass, Cooke, Jasper, Newton, Orange, Morris, Rusk, Panola, Grayson, Dallas, Leon, Marion, Fannin, Denton, San Jacinto, Polk, Tyler, Wise, Montague, Clay, and the unorganized counties attached to the same for judicial purposes; Falls, Nacogdoches, Angelina, Hopkins, Parker, Jack, Young, and the unorganized counties attached to the same for judicial purposes; McLennan, Ellis, Robertson, Anderson, Bastrop, Tom Green, Hill, Lamar, Freestone, Cherokee, Bowie, Fort Bend, Wharton, Waller, Tarrant, Taylor, Calahan, Shackelford, Stephens, Eastland, Erath, Comanche, Palo Pinto, Smith, Gregg, Upshur, Camp, Limestone, Navarro, Grimes, Madison, Walker, Trinity, Burleson, Washington and Austin.

Approved March 26, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER LIX.—An act to amend sections six and nine of “an act to define a lawful fence, and to carry into effect sections twenty-two and twenty-three, article sixteen of the constitution of the State of Texas, authorizing the passage of stock and fence laws,” approved August 15, 1876.

Section 1. Be it enacted by the Legislature of the State of Texas, That section six of the above entitled act, approved August 15, 1876, be and the same is hereby amended so as to hereafter read as follows, viz:

“Sec. 6. Should any stock not permitted to run at large enter within the enclosure of any owner or lessee of land entitled to the benefit of this act without his or their consent, it shall be lawful for the owner or lessee of said enclosure to impound said stock; and it shall be the duty of the owner or lessee of said land to give notice immediately to the owner of said stock of their impounding and detention, and the owner of said stock shall be entitled to the possession of his or her stock on the payment of the expenses incurred in impounding and keeping said stock; provided, that in such county or subdivision said owners or lessees shall not be required to fence against the stock not permitted to run at large; and any fence in said county or subdivision which is sufficient to keep out ordinary stock permitted to run at large under this act shall be deemed a lawful fence. That three barbed wires or two strans of barbed wire, or pickets four and one-half feet high and not more than six inches apart, shall constitute a lawful fence. If boards or rails are used, then three boards, to be not less than five inches wide and one inch thick, or four rails, shall constitute a lawful fence; provided, that if wires only are used, the owner of the fence shall be required to fasten a board not less than four inches wide and one-half inch thick between the wires; provided further, that all fencing built under the provisions of this act shall be four and one-half feet high.”

Sec. 2. That section nine of the above entitled act, approved August 15, 1876, be so amended as to hereafter read as follows, viz: “Section 9. If any person whose fence is insufficient under this act, shall with guns, dogs or otherwise, maim, wound or kill any cattle, or any horse, mule, jack or jennet, or procure the same to be done, such person or persons so offending shall give full satisfaction to the party injured for all damages by such person or persons sustained, to be recovered as in other suits for damages; provided, that this section shall not be so construed as to authorize any person in any event to maim, kill or wound any horse, mule, jack, jennet or cattle belonging to another. When a trespass has been committed by any cattle or horses, on the cleared or cultivated lands of any person who has complied with the provisions of this act, in the erection of a lawful fence, it shall be lawful for such person to complain thereof to the justice of the peace of the precinct in which such trespass shall have been committed, and such justice is hereby authorized and required to cause two disinterested and impartial freeholders to be summoned, who shall on oath view and examine whether such complaint be sufficient or not, and what damages he has sustained by said trespass, and certify the same in writing; and if it shall so appear that said fence be sufficient, then the owner of such cattle or horses shall make just satisfaction for the trespass to the party injured, to be recovered before any tribunal having proper jurisdiction. In case of a second trespass by the same cattle or horses, the owner or lessee of the premises upon which the trespass is committed, may if he deems it necessary for

the protection and preservation of his premises or growing crop thereon, cause said stock to be penned and turned over to the sheriff or constable, and held responsible to the person damaged, for all damages caused by said stock and all cost thereof. It shall be lawful for the owner or lessee of such enclosures as are contemplated in this act, to charge the following rates for impounding such stock as referred to in this act, to wit: twenty-five cents per day per head; provided, this act shall not apply or be in force in the county of Cooke."

Sec. 3. Nothing in this act shall prevent the freeholders of any county or subdivision of a county where the stock law prevails, from deciding by a majority vote whether or not three barbed wires without a board or plank shall constitute a lawful fence in such county or subdivision of same. The election for such purpose to be conducted in the same manner and under the same rules and regulations as elections provided for in the act authorizing the passage of stock and fence laws, approved August 15, 1876.

Sec. 4. Provided that the counties of Refugio, Aransas, San Patricio and Bee, shall be and are exempted from the provisions of this act.

Approved March 26, 1879.

Takes effect ninety days after adjournment.

CHAPTER LX.—An act to amend "an act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas," approved February, 1879.

Section 1. Be it enacted by the Legislature of the State of Texas, That articles 396 and 398, chapter 3, title XII of the Penal Code of the State of Texas, shall hereafter read as follows, to wit:

Article 396. If any person shall practice for pay, or as a regular practitioner, medicine in this state, in any of its branches or departments, or offer or attempt to practice without first having obtained a certificate of professional qualification from some authorized board of medical examiners, or without having a diploma from some accredited medical college, chartered by the legislature of the state or its authority, in which the same is situated, he shall be punished by fine of not less than fifty nor more than five hundred dollars.

Article 398. If any person shall hereafter engage in the practice of medicine, in any of its branches or departments, for pay, or as a regular practitioner, without having first filed for record with the clerk of the district court of the county in which such person may reside or sojourn, a certificate from some authorized board of medical examiners, or a diploma from some accredited medical college, he shall be punished as prescribed in article 396.

Approved March 26, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER LXI.—An act legalizing the county lines of Duval county and of counties affected thereby, as surveyed and marked by the surveyors of Nueces, Duval, Live Oak and Webb counties.

Section 1. Be it enacted by the Legislature of the State of Texas, That the boundary lines of Duval county, surveyed and marked by La-

fayette Caldwell, John J. Dix, S. M. Jarvis and R. H. Brown, surveyors respectively of Nueces, Duval, Webb and Live Oak counties, during the months of April, May, June, September and October, 1877, and returned to the general land office by said John. J. Dix, are hereby declared the true and permanent boundary lines of Duval county.

Sec. 2. That the line established, surveyed and marked by said John J. Dix in January, 1878, in accordance with an act passed April 26, 1871, to amend sections 1 and 4 of "An act to define, establish and mark the boundaries of the counties of Cameron, Hidalgo, Starr, Zapata, Webb, Encinal, Duval and Nueces," passed July 26, 1870, the field notes of which are on file in the general land office, is hereby declared to be the true and permanent division line between the counties named.

Sec. 3. That as questions of jurisdiction may arise between the counties in the assessment and collection of taxes creating an emergency, an imperative public necessity exists that this law shall go into effect from and after its passage.

Approved March 26, A. D. 1879.

Takes effect from and after its passage.

CHAPTER LXII.—An act to diminish the civil and criminal jurisdiction of the county courts of certain counties in this state, and conform the jurisdiction of the district courts of said counties to such change.

Section 1. Be it enacted by the Legislature of the State of Texas, That the county courts of the counties of Polk, Jasper, Newton, Brazoria, Brown, Camp, Chambers, Coleman, Concho, Coryell, Crockett, El Paso, Franklin, Hamilton, Hardin, Jefferson, Liberty, Llano, Marion, Matagorda, McCulloch, Morris, Nacogdoches, Pecos, Presidio, Sabine, San Augustine, San Jacinto, San Saba, Shelby, Titus, Tom Green, Trinity, Tyler and Orange shall have and exercise the general jurisdiction of probate courts, shall probate wills, appoint guardians of minors, idiots, lunatics and persons non compos mentis, and common drunkards; grant letters testamentary and of administration; settle accounts of executors, administrators and guardians; transact all business appertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition settlement and distribution of estates of deceased persons, and to apprentice minors as prescribed by law, and to issue all writs necessary to the enforcement of their jurisdiction, and to punish contempts under such provisions as are or may be provided by general law governing county courts throughout the state; but said county courts shall have no other jurisdiction, civil or criminal.

Sec. 2. That the district courts of said counties shall have and exercise jurisdiction in all matters and causes, civil and criminal, over which, by the general laws of the state, the county courts of said counties would have jurisdiction, except as provided in section 1 of this act, and that all cases other than probate matters, and such as are provided in section 1 of this act, be and the same are hereby transferred to the district courts of said counties, and all writs and process, civil and criminal, heretofore issued by or out of said county courts other than those pertaining to matters over which, by section 1 of this act, jurisdiction is



given to the county courts of said counties, be and the same are hereby made returnable to the next term of the District court in and for said counties.

Sec. 3. That the clerks of the county courts of the counties aforesaid be, and they are hereby required within twenty days after the passage of this act, to make a fair and complete transcript of all the entries on their dockets, civil and criminal, theretofore made in causes which, by section 2 of this act are transferred to the district courts of said counties, and file the same, together with the original papers of all said causes and proceedings, with the clerk of the district court of their respective counties; and all such cases shall immediately be docketed by the clerk of the district court of said counties respectively, and shall stand on the docket of said court as appearance cases for the next term of said court; and for each of such transcripts, the county clerks aforesaid shall receive twenty cents per one hundred words and fifty cents for a certificate thereto, to be taxed as costs against the party cast in the suit, if a civil suit, and if criminal, against the defendant if convicted; provided, that the change of the criminal jurisdiction provided for in this act shall not apply to Marion county.

Sec. 4. That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

Sec. 5. Whereas, the immediate operation of the provisions of this act will save the counties herein named a large and unnecessary expense, and thereby an emergency exists which justifies that this act take effect from and after its passage, and it is so enacted. And whereas, the time is short which remains to this session, and there is a large amount of legislative business pending, creates an imperative public necessity which authorizes the suspension of the rule requiring this bill to be read on three several days, and said rule is so suspended.

Approved March 27, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER LXIII.—An act amendatory of “an act establishing the tenth, twelfth, thirteenth, twenty-eighth, twenty-ninth and thirtieth judicial districts, prescribing the times of holding the district courts therein, and providing for the appointment of district judges for the twenty-eighth, twenty-ninth and thirtieth judicial districts,” approved February 22, 1879; and repealing “an act supplemental thereto,” approved March 8, 1879.

Section 1. Be it enacted by the Legislature of the State of Texas, That section 8 of the above recited act be so amended as to hereafter read as follows:

“Section 8. The district courts in said twelfth judicial district shall be holden at the places and times hereinafter recited, to wit: In the county of Brown, on the first Mondays in April, August and December, and may continue in session two weeks; in the county of Coleman, on the second Mondays after the first Mondays in April, August and December, and may continue in session one week; in the county of Taylor, on the third Mondays after the first Mondays in April, August and December, and may continue in session one week; in the county of Callahan, on the

fourth Mondays after the first Mondays in April, August and December, and may continue in session one week; in the county of Shackelford, on the fifth Mondays after the first Mondays in April, August and December, and may continue in session one week; in the county of Throckmorton, on the sixth Mondays after the first Mondays in April, August and December, and may continue in session one week; in the county of Young, on the seventh Mondays after the first Mondays in April, August and December, and may continue in session one week; in the county of Stephens, on the eighth Mondays after the first Mondays in April, August and December, and may continue in session one week; in the county of Eastland, on the ninth Mondays after the first Mondays in April, August and December, and may continue in session one week; in the county of Comanche, on the tenth Mondays after the first Mondays in April, August and December, and may continue in session until the business is disposed of."

Sec. 2. That section 17 of the above recited act, be so amended as to hereafter read as follows:

"Section 17. That any district attorney now elect, exercising the functions of his office in any of the said tenth, twelfth and thirtieth districts, shall continue to hold his office as district attorney in the district in which he resides, as is prescribed in this act."

Sec. 3. That an act supplemental to the act above recited, approved March 8, 1879, be and the same is hereby repealed.

Sec. 4. Whereas, the time of holding court in said district is now at hand, and an imperative public necessity exists for holding the same, therefore an emergency exists that this act take effect and be in force from and after its passage, and it is so enacted.

Approved March 27, A. D. 1879.

Takes effect from and after its passage.

CHAPTER LXIV.—An act entitled an act to amend article 794, chapter 3 of the Code of Criminal Procedure, adopted at the present session of the Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That article 794 of the Code of Criminal Procedure of this state shall hereafter read as follows, viz:

"Article 794. When an appeal is taken in cases of felony, where the verdict prescribes the death penalty, sentence shall not be pronounced, but shall be suspended until the decision of the court of appeals has been received. In all other cases of felony sentence shall be pronounced before the appeal is taken, and upon the affirmance of the judgment by the court of appeals, the clerk thereof shall at once transmit the mandate of the court to the clerk of the court from which the appeal was taken, there to be duly recorded in the minute book of said court, and a certified copy of this record, under the seal of the court, shall be sufficient authority to authorize and require the sheriff to execute the sentence without further delay."

Sec. 2. Whereas, the present law entails a large and unnecessary expense on the counties, creates an imperative public necessity and an emergency exists for the immediate passage of this act, it shall therefore take effect and be in force from and after its passage.

Approved March 27, A. D. 1879.

Takes effect from and after its passage.

CHAPTER LXV.—An act to amend article 436 of section 2, of “an act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas,” passed at the present session of the Legislature:

Section 1. Be it enacted by the Legislature of the State of Texas, That article 436 of section 2, of the above entitled act, be and the same is hereby amended so as to read as follows, to-wit:

“Article 436. Causes over which justices of the peace have jurisdiction may be transferred to a justice of the peace at the county seat, or, in the discretion of the judge, to a justice of the precinct in which the same can be most conveniently tried, as may appear by memorandum endorsed by the foreman of the grand jury, on the indictment or otherwise; but if it appear to the judge that the offense has been committed in any incorporated town or city, the cause shall be transferred to a justice in said town or city, if there be one therein; and any justice to whom any such cause may be transferred shall have jurisdiction to try the same.”

Sec. 2. Whereas, the press of business in both Houses of the Legislature, and the fact that the Legislature is soon to adjourn, renders it doubtful whether this act can be read on three several days, and an imperative public necessity and emergency exists for the passage of this act, therefore, that the rule requiring this act to be read on three several days be and the same is hereby suspended.

Approved April 3, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER LXVI.—An act to provide for the levy and collection of an occupation tax on the sale of spirituous, vinous and malt liquors in quantities less than a quart, and to make an appropriation to carry the same into effect.

Section 1. Be it enacted by the Legislature of the State of Texas, That from and after the first day of October, 1879, all dealers in spirituous, vinous and malt liquors, in quantities less than a quart, shall pay a specific occupation tax of two hundred and fifty dollars per annum, or twenty-five dollars on the sale of malt liquors only, and shall pay an occupation tax of two cents on each drink of alcoholic or vinous liquors, or any admixture thereof, and an occupation tax of one-half cent upon each drink of malt liquor which shall be sold or drank on the premises of any person licensed to sell at retail said alcoholic liquors or malt liquors; said tax to be collected in manner and form as hereinafter provided; which said tax when collected shall be paid into the state treasury; provided, this act shall not be construed to tax any liquors used by any druggist or apothecary in compounding any medicines or medicinal preparations; the exceptions contemplated by this proviso do not apply to any tonic, bitters, etc., of which the chief constituent is alcoholic liquors, but simply to tinctures and extracts. The specific occupation tax herein provided for shall be paid to the tax collector before any dealer under this act shall be permitted to commence business, and before the tax collector shall be authorized to furnish the register; and the tax collector shall enter on his books, when paid, such specific occupation tax to the credit of the dealer, and such dealer shall not be compelled to pay any tax that shall

be due as indicated by the register until said credit is exhausted; provided, that no dealer, whose register tax shall be less than his specific tax when his license expires, shall be entitled to any further credit, rebate, or refunding of said specific occupation tax.

Sec. 2. To more fully provide for the carrying out of the provisions of the first section of this act, it is hereby provided that each and every person or firm engaged in the sale thereof, as aforesaid, shall have permanently attached to his or their counter where such spirituous, vinous or malt liquors are sold, one register marked "alcoholic," and one register marked "malt," which said designation shall be marked upon the face of said register respectively in plain and legible letters, not less than one inch in length, which said register shall be provided each with a bell, which shall be struck at each revolution of the crank thereof, and be provided with a true, accurate and certain arrangement of figures so attached to the mechanism of said register that they shall indicate at all times upon the face thereof the exact number of revolutions of the crank which shall move said mechanism, and each register shall also have permanently fixed upon the face thereof a metal stamp, not more than two and one-half inches in diameter, with the number of said register and the coat-of-arms of the State of Texas; provided, however, that only one register need be kept as aforesaid when the person or firm only sells spirituous or vinous, or malt liquors, as the case may be.

Sec. 3. The register herein provided for shall be furnished by the comptroller, as hereinafter provided, to the county tax collector upon his requisition upon the comptroller; and it shall be the duty of each person or firm obtaining a license to sell spirituous, vinous or malt liquors at retail under this act, to procure from the said tax collector the requisite register (which said register shall be furnished at the cost of ten dollars each), and attach the same to his or their counter, as hereinbefore provided, under the supervision of the tax collector in said county, where the said person or firm resides or does business, and when the said register or registers are affixed as aforesaid, the same shall not be removed therefrom for any purpose whatever unless to save from destruction by fire, riot or other sufficient cause, except by the said tax collector, under whose supervision all registers shall at all times remain, and upon the expiration of any license or discontinuance of business by any person or firm, it shall be the duty of the person or firm so licensed to return the register or registers to the tax collector, and no right of property shall be vested in the party or parties using the said registers, but the same shall remain the property of the State of Texas.

Sec. 4. It shall be the duty of the parties so licensed, his or their employes, clerks or agents, as the case may be, to properly register the sale of every drink of spirituous, vinous or malt liquors upon the proper register affixed to his or their counter, as aforesaid, in the presence of the purchaser, by turning the crank of the proper register so that the crank shall make one complete revolution for each drink so sold, and when any spirituous or vinous liquors are sold in larger quantities than by the drink by said parties so licensed, it shall be his or their duty to turn or cause to be turned, as aforesaid, the crank of the register marked "alcoholic," so that it shall make four complete revolutions for each pint of such spirituous or vinous liquors so sold; and for each quart of malt liquors sold it shall be the duty of such licensed person or firm to turn or cause to be turned, as aforesaid, the crank of the register marked "malt," so that it shall make two complete revolutions for each quart of

malt liquor so sold; and it shall be unlawful for any person to pay for said drinks until the same are registered.

Sec. 5. It shall be the duty of the person or firm licensed, as aforesaid, to pay on the first day of each month, or whenever called upon by the tax collector, as hereinafter provided, the amount of tax which the said register or registers shall show to be due for the preceding month, or since the preceding collection.

Sec. 6. It shall be the duty of the comptroller, after the passage of this act, to contract for a sufficient number of registers that may be adopted, as provided for in section 17 of this act, and he shall fill all requisitions that may be made on him by the tax collector, in the comptroller's office of this state; it shall also be his duty to prescribe a form for the books and blanks to be furnished to tax collectors, which shall be furnished by the comptroller to the tax collectors of their several respective counties; the comptroller shall also furnish with each register printed copies of instructions in explanation of the use of said registers, and the manner and form of keeping the books and filling the blanks so provided to be furnished, one copy of which shall be furnished to each person or firm licensed as aforesaid. He shall keep an accurate record in a book, kept for that purpose, of all registers by him furnished to the tax collectors of the respective counties of this state, wherein shall be entered the number of registers furnished, their respective numbers, the day and date when the registration was received, when filled, the amount charged for said registers, and the day and date and manner of payment; and in his annual report he shall give detailed statements of all moneys received and paid out on their account.

Sec. 7. It shall be the duty of the tax collector of each county of this state, upon the day this act goes into effect, to inspect in person, or by deputy, each licensed place in his respective county, to ascertain if the register has been duly provided, as hereinbefore enacted; to see that it is permanently attached to the counter of such dealer in a conspicuous place; to note in a book, which shall be provided him, the number indicated on the dial or face of the register or registers, when there shall be more than one. It shall be his duty further to visit in person, or by deputy, each of said licensed places upon the first day of each month, or within four days thereafter, and carefully examine and note on his book the number of drinks sold of spirituous, vinous or malt liquors, or mixtures thereof, during the previous month, or since the last official visit, by said licensed dealer or dealers, as shown by said register or registers, and collect the taxes thereon, as hereinbefore provided, to be paid by such licensed dealer or dealers. The said tax collector shall, on or before the tenth [day] of each month, make a return from the said book showing the amount of tax collected from each dealer for the preceding month in his county, and send the same to the comptroller; and he shall file a duplicate of the same with the county clerk of his county, who shall securely keep the same as a record in his office. The said tax collector shall pay over to the treasurer of the state all money in his possession so collected, as aforesaid, first deducting his commissions, as hereinafter provided, at least once in every three months, at such times as may be designated by the comptroller. It shall be the duty of the tax collector to receipt for any such money so received in the book in which he keeps his record. The several tax collectors shall hereafter on or before the tenth day of January in each year, except the year 1880, deposit with the comptroller the books used by them during the

previous year for the use of the comptroller in auditing the accounts of the tax collector, and after the accounts are audited and approved by the comptroller they shall be carefully filed away in the comptroller's office for future reference, and it shall be the duty of the comptroller to enter in each book the day and date of the examination of said accounts, and to compare the entries therein with the entries made in the book to be kept by the comptroller, and to endorse his approval therein over his official signature. It shall also be the duty of the comptroller to make a detailed statement of the amount of tax received from each county in the state on the first day of January of each year, which said statement shall be published in January of each year, in some newspaper designated by the governor.

Sec. 8. It shall be the duty of any person or firm, licensed as aforesaid, to pay to the tax collector on the first day of each month, or as soon thereafter as demand shall be made, in lawful money of the United States, the amount which the register or registers in his or their place of business show he or they are chargeable with, and it shall be the duty of the tax collector upon neglect or refusal of the person or persons to pay the same to immediately proceed to collect all taxes due and unpaid, and he is hereby invested with the power to seize and sequester all the liquors, furniture and material connected with the business of said person or firm, or a sufficiency thereof, to pay said tax and five per cent. penalty, and sell the same after five days notice posted as under execution sales; said five per cent. to cover cost of sale, and to go to the tax collector for that purpose, and the person or persons so licensed and so neglecting or refusing to pay as aforesaid, in addition shall forfeit his or their license; and it shall be the further duty of the tax collector to seize the register or registers, as hereinbefore provided, and the same shall be forfeited for the use of the state, and said person so failing to pay his taxes shall not have a permit again within one year.

Sec. 9. That the tax collector shall receive for his compensation for his services, as herein provided, five per cent. on his collections.

Sec. 10. That if any person shall wilfully mutilate, deface, injure or destroy any register placed under authority of this act in the place of business of any liquor dealer, or who shall wilfully move the indicator on the register, or turn the crank of the register, otherwise than as required by this act, by which such dealer may become chargeable with a greater or less amount of taxes than of right he ought to be, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars nor more than two hundred dollars, and shall be liable to such damages as may accrue to the dealer thereby.

Sec. 11. That if any liquor dealer, his clerk, agent or employe, shall, on the sale, barter or giving away of any vinous, spirituous or malt liquors, fail to turn the crank of the proper register, as hereinbefore required, the person so offending, for each failure, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than fifty dollars and not more than two hundred and fifty dollars, and any person who shall pay for or receive any spirituous, vinous or malt liquors sold to him before the same is registered, shall be fined in any sum not less than five dollars nor more than two hundred and fifty dollars.

Sec. 12. That any liquor dealer who shall refuse to permit the register herein provided for to be fixed in his place of business, or after the same shall be so fixed, remove the same or destroy it, intentionally mutilate or deface it, he shall be deemed guilty of a misdemeanor, and upon

conviction by the court shall be fined not less than fifty nor more than two hundred and fifty dollars; and he shall forfeit his license and shall not have a permit under this law for one year.

Sec. 13. That any officer designated by this act to perform any duties under it, who shall refuse or neglect to perform the same, shall be deemed guilty of a misdemeanor, and be fined, upon conviction, not less than one hundred dollars, and not more than one thousand dollars, and be removed from office.

Sec. 14. That any liquor dealer who shall fail to comply with the provisions of this act, and wherein a penalty is not hereinbefore prescribed, shall be deemed guilty of a misdemeanor, and shall, on conviction, be fined not less than fifty dollars, and not more than two hundred and fifty dollars.

Sec. 15. That any tax collector or other officer who shall combine with any liquor dealer, or with any agent, employe or clerk of such dealer, for the purpose of evading or defeating the provisions of this act, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than one hundred nor more than five hundred dollars, and, in addition thereto, shall be confined in the county jail not less than thirty days nor more than one year, and shall be removed from office.

Sec. 16. That it shall not be lawful for any liquor dealer, or other person in their place of business, or in any room or building adjoining or in any way connected therewith, or under his control, to give away any spirituous, vinous or malt liquors, whereby any of the provisions of this act shall be evaded or defeated; and any person convicted of the same shall be fined in the sum of not less than fifty dollars nor more than two hundred and fifty dollars.

Sec. 17. That it shall be the duty of the comptroller, treasurer and attorney general, within thirty days after the passage of this act, or as soon thereafter as practicable, to select a register from among those patented, which shall be adopted and used to carry out the provisions of this act, having in view the safety, correctness and durability of the register so selected.

Sec. 18. That if any person shall wilfully mutilate, alter, counterfeit or for any purpose use a register in this state, with a similar or proximate design to the stamp or coat-of-arms affixed upon the register provided for by this act, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than fifty nor more than five hundred dollars.

Sec. 19. It shall be the duty of the judge of the district court to give this act in charge of the grand jury at every regular grand jury term of their respective courts.

Sec. 20. It shall be the duty of the comptroller to keep a separate account of all moneys paid into the treasury of the state from each county in this state, and after deducting the expenses of collections, register's books and blanks in each county, he shall in January, April, July and October of each year draw his warrants on the treasury in favor of each county for one-third of said collections made in said respective counties, and there shall be no other occupation tax collected from said licensed dealers by any county in the state. And said one-third of all net collections made under this law, shall be reserved in the hands of the treasurer, and is hereby appropriated to meet the warrants provided

for in this section in favor of the counties; the balance of said collections shall be considered general revenue.

Sec. 21. That no dealer in spirituous, vinous or malt liquors shall have the right to sell the same under the provisions of this act until he shall have procured a permit from the county clerk, and filed in his office a bond with good and sufficient sureties, to be approved by the county clerk, in the sum of five hundred dollars in addition to any other bond required by law, payable to the State of Texas, conditioned that said dealer will pay all occupation taxes due or to become due in accordance with the provisions of this act, and that he will keep an orderly house. A form of such bond shall be prepared by the comptroller, which shall not be void for want of form, and any person who shall sell any spirituous, vinous or malt liquors in less quantities than a quart, without complying with the provisions of this act, shall, on conviction, be fined two hundred and fifty dollars.

Sec. 22. Any person who shall sell spirituous, vinous or malt liquors contrary to the provisions of this act, and without having complied with the provisions thereof, shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished for each day he may so offend, not less than fifty nor more than two hundred and fifty dollars.

Sec. 23. That all fines collected under the provisions of this act shall be paid into the county treasury, and all persons convicted under any of the provisions of this act shall stand committed to jail until said fines and costs are paid, any law to the contrary notwithstanding.

Sec. 24. Any incorporated city or town within this state shall have the authority and power to levy and collect an occupation tax of one-fourth of a cent on all spirituous vinous and alcoholic drinks, and one-eighth of a cent on all malt drinks sold under the provisions of this act within their respective limits, and no more, to be estimated and collected by the respective cities and towns in such manner as they may determine.

Sec. 25. That the sum of ten thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any moneys in the treasury not otherwise appropriated, for the purpose of carrying the provisions of this act into effect.

Approved April 3, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER LXVII.—An act to further regulate and render more efficient the maintenance and management of the public free schools and institutions of learning in cities or towns in this state.

Section 1. Be it enacted by the Legislature of the State of Texas, That any city or town in this state may acquire the exclusive control of the public free schools within its limits.

Sec. 2. The mayor of said city or town shall, upon the written application of not less than fifty of the qualified electors of such city or town, order, within twenty days of such application, an election by the qualified electors of such city or town, to be conducted as other municipal elections, to decide by a majority of the votes cast by the qualified electors of such city or town at such election, whether such city or town shall acquire the exclusive control of any or all of the public free schools and institutions of learning within its limits, and whether the same

shall be under the control of a board of trustees as hereinafter mentioned, or of the council or board of aldermen of such city or town.

Sec. 3. If, at such election, it shall be decided that such city or town has acquired the exclusive control of said public free schools and institutions of learning, and that the same shall be under the management of a board of trustees, then the mayor of such city or town shall, within ten days from the ascertainment of such result, order an election, to be conducted as other municipal elections, by the qualified electors of such city or town, of six trustees, to take charge of and manage said public free schools and institutions of learning. The six persons receiving the largest number of votes cast at such election shall, thereupon, become such trustees, and shall hold their offices for four years; provided, that at the first election, held under the provisions of this act, the trustees receiving the smallest majorities shall only hold their offices for two years, and at the end of every two years thereafter there shall be elected, in like manner, three trustees. Any vacancy, from any cause whatever among said trustees, to be filled by an election as herein provided for, for the unexpired term of such trustees; and, provided further, that said trustees may continue to act until their successors may have qualified.

Sec. 4. The county judge of the county in which said city or town is situated, and the mayor of such city or town shall be ex officio members of said board of trustees.

Sec. 5. Said board of trustees may adopt such rules, regulations and by-laws for their own government as they may deem proper, and select their chairman, secretary, treasurer and other necessary officers.

Sec. 6. Said board of trustees shall have and exercise exclusively the same powers, control, management and government of and over such public free schools and institutions of learning in such cities or towns as are now or hereafter may be by law conferred upon the council or board of aldermen of such cities or towns where such council or board of aldermen are invested with the control of such public free schools.

Sec. 7. Should the election provided for in section 2 of this act result adversely to the acquisition of such control of the public free schools and election of a board of trustees, then no like application shall be entertained within two years.

Sec. 8. The boards of trustees herein provided for to act in the place of the council or board of aldermen in such cities or towns as may acquire the exclusive control of the public free schools and institutions of learning within their limits, shall receive no compensation for their services.

Approved April 3, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER LXVIII—An act to diminish the civil and criminal jurisdiction of the county court of Trinity county, and conform the jurisdiction of the district court of said county to said change.

Section 1. Be it enacted by the Legislature of the State of Texas, That the county court of Trinity county shall have and exercise the general jurisdiction of a probate court; shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards; grant letters testamentary and of administration; settle accounts of executors, administrators and guardians; transact all business

appertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the partition, distribution and settlement of estates of deceased persons; to apprentice minors, as prescribed by law; and to issue all writs necessary to the enforcement of the jurisdiction herein granted, and to punish contempts under such provisions as are or may be provided by general law governing county courts; but said county court shall have no other jurisdiction, civil or criminal.

Sec. 2. That the district court of Trinity county shall have and exercise jurisdiction in all matters and causes civil and criminal, which by the general laws of this state the county court of said county would have jurisdiction over, except as provided in section 1 of this act; and all causes and proceedings other than probate matters, and such as are provided in section 1 of this act, are hereby transferred to the district court of said county; and all writs and process, civil and criminal, heretofore issued by or out of said county court, other than those pertaining to matters over which, by section 1 of this act, jurisdiction is conferred on said county court, are hereby made returnable to the next term of the said district court, and shall be as valid as if issued by or out of said district court.

Sec. 3. That the clerk of the county court of Trinity county is hereby required, within twenty days after the passage of this act, to make a full and complete transcript of all the entries on the civil and criminal dockets of said county court theretofore made in causes and proceedings which, by section 2 of this act, are transferred to the district court of said county, and file said transcripts, together with the original papers of all said causes and proceedings, with the clerk of the district court of said county, and for each of such transcripts said county clerk shall receive twenty cents per hundred words and fifty cents for certificate thereto, to be paid as costs by the party cast in the suit if a civil proceeding, and by the defendant if convicted in a criminal cause. And all such causes and proceedings transferred by this act to said district court shall stand on the docket of said court as appearance cases for the next term of said court.

Sec. 4. That all laws and parts of laws in conflict with this act are hereby repealed.

Sec. 5. Whereas, due publication of notice of intention to apply for the passage of this act, and due proof of such publication have been made; and,

Whereas, the immediate operation of this act will save the county of Trinity a large and unnecessary expense, and thereby an emergency exists which justifies that this act take effect from its passage; and whereas, the fact that the time is short which remains to this session, and there is a large amount of legislative business pending, creates an imperative public necessity which authorizes the suspension of the rule requiring this bill to be read on three several days, said rule is therefore suspended, and this act shall take effect and be in force from and after its passage.

Approved April 5, A. D. 1879.

Takes effect from and after its passage.

CHAPTER LXIX.—An act to amend article 2405 of the Revised Civil Statutes.

Section 1. Be it enacted by the Legislature of the State of Texas, That article 2405 of the Revised Civil Statutes be amended so as hereafter to read as follows:

“Article 2405. The commissions allowed to any county treasurer shall not exceed two thousand dollars annually.”

Approved April 7, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER LXX.—An act to provide for the sale of all real estate bid off to the state by collectors of taxes at tax sales, the owners of which have not redeemed the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be the duty of the comptroller of public accounts, on or before the first day of each year, to make out and forward to the collector of taxes in each county of the state, a full and complete list of all real estate situated in said county that has been previously, at tax sales, bid off to the state for taxes assessed in the county where the land is situated, since the thirty-first day of December, 1876, the owners of which have failed to redeem the same within two years from the date of said sale, by payment or tender of payment to the proper officer of double the amount of taxes and costs for which said real estate was bid off to the state, together with all subsequent taxes that have become due on the same from the date of sale to the last date on which the same could have been redeemed.

Sec. 2. It shall be the duty of each collector of taxes, within ninety days after receipt of said list, to call to his aid the county surveyor of his county, and, near as may be, ascertain if any lands contained in said list do not, in fact, exist in said county, or are embraced in other surveys conflicting therewith, and upon which the taxes have been paid, and after deducting the same from said list, he shall proceed to sell each tract of land therein described, whether belonging to residents or non-residents, for the payment of such sums of money as may be designated on said list as due thereon, together with all costs that may accrue in advertising and selling the same as herein provided.

Sec. 3. The collector of taxes shall, prior to the sale of any real estate herein provided for, advertise the real estate described in said list as for sale, in some newspaper published in the county, for three successive weeks, if there be such newspaper; otherwise he shall post advertisements of said sale at the court house door, and at one public place in each justice's precinct of his county for at least twenty days, giving in said advertisement, whether published or posted, such description of the lands to be sold as shall be given on the comptroller's list, and stating the time, place and terms of sale, which shall be between legal hours, on the first Tuesday of some specified month at the court house door, at public outcry, to the highest bidder for cash; provided, that no real estate shall, in any case, be sold for less than the amount designated by the comptroller as due thereon, together with all costs of advertisement and sale.

Sec. 4. At the time and place appointed for said sale the collector of taxes shall offer for sale each separate parcel of the real estate advertised, and shall sell the same to the bidder who will offer the largest amount of money therefor.

Sec. 5. If the sale of the real estate advertised as provided herein shall not be completed on the day it is commenced said sale may be continued for ten successive days, from day to day, by announcement of the tax collector to that effect, and the said collector may, if there be on any day a less number than three bidders present, adjourn said sale to the first Tuesday in the following month.

Sec. 6. When a sale has been made of any real estate as herein provided, the collector of taxes, upon payment of the amount bid for the same, shall make, execute and deliver to the purchaser a deed for such real estate, specifying in said deed the cause and date of sale, the number of acres sold, if the same can be ascertained, the name of the person, firm, corporation or company in whose name the land was assessed, and all such descriptive information as may be necessary to identify the property conveyed; provided, that the purchaser may, after payment, as prescribed in this section, ask a delay of sixty days within which to have said real estate surveyed by the county surveyor, said survey to be made at the expense of the purchaser, and, upon a certificate from the collector directed to the surveyor that the person named in the certificate has purchased and paid for the same, not to exceed one dollar for each survey, to be paid for out of the sale of such survey.

Sec. 7. When a survey has been made, as provided in the preceding section, and a copy of the field notes, certified to as true and correct by the county surveyor, filed with the collector of taxes, the said collector shall thereupon make, execute and deliver to the purchaser a deed to said real estate, which deed shall, in addition to the requisite hereinbefore named, contain the field notes certified by the county surveyor.

Sec. 8. Deeds made, executed and delivered by collectors of taxes under the authority of this act, shall be held to vest a good and perfect title to the real estate therein described, in the purchaser, and may be impeached only by fraud; provided, that the former owner shall have two years from the date of said deed to redeem the same by paying to the purchaser double the amount paid for said land by the purchaser at such sale, together with all subsequent taxes paid by the purchaser, with eight per centum interest on the amount of such subsequent taxes.

Sec. 9. Within thirty days after sales made under the provisions of this act, the collector of taxes shall make a report to the commissioners' court of his county, and also to the comptroller of public accounts, giving in said reports such description of the real estate sold as is given in the comptroller's list, and stating the amounts due the state, county and collector respectively, and the amount for which said land was sold, and the name of the party to whom each tract was sold.

Sec. 10. Collectors of taxes shall, within sixty days after payments for real estate sold under the provisions of this act, after deducting from the proceeds of sale all costs due to them or their predecessors in said office, pay into the county treasury of the county in which said real estate is situated the amount of taxes shown by the comptroller's list to be due to said county, and the balance of said proceeds shall be paid by him into the treasury of the state within the said sixty days, in such manner as may be directed by the comptroller of public accounts.

Sec. 11. Taxes collected for the state or county by sales made under the provisions of this act, shall be placed to the credit of the different funds for which assessed, under the direction respectively of the comptroller of public accounts and the commissioners' courts of the counties in which the sale is made. The balance remaining of the proceeds of such sales, after deducting all costs, shall be under the direction of the comptroller applied as general revenue.

Sec. 12. The collector of taxes shall be entitled to deduct and retain out of the proceeds of sale of each separate parcel of real estate sold, as hereinbefore provided: First—Such amount as may be designated in the comptroller's list as costs due thereon to the collector. Second—If the advertisement of sale is published in a newspaper, such a proportion of the actual amount paid for advertising as the number of acres in such separate parcel sold bears to the whole number of acres advertised; or if the advertisements are posted, the sum of one dollar. Third—Two dollars for every deed made, executed and delivered under the provisions of this act.

Sec. 13. If, after the expiration of ninety days after the receipt by the collector of taxes of the comptroller's list, any real estate described in said list shall remain unsold it shall be the duty of the said collector to make separate reports of such fact to the commissioners' court of his county and the comptroller of public accounts respectively, and the said parcels of real estate shall be embraced in the next list furnished by the comptroller of public accounts to the collector of taxes.

Approved April 7, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER LXXI.—An act for the better protection of timber and lumber.

Section 1. Be it enacted by the Legislature of the State of Texas, That any person engaged in floating or rafting timber upon the waters of any river or creek of this state shall have a log brand with which to brand every log or stick that he may float or haul and put into the waters for sale or market, the same to be distinctly branded.

Sec. 2. That he shall have said brand recorded in every county in which he cuts any of said timber, and in the county where he proposes to sell or market said timber, by the county clerk in a book to be kept by said clerk for that purpose, for which said clerk shall receive a fee the same as is by law allowed for recording stock brands.

Sec. 3. Any persons who float any logs or timber in this state shall, on the first day of April, first day of July, first day of September, and the first day of January of each year, or within fifteen days of said dates, make a written report under oath showing the number of logs cut or floated during the next preceding three months, the survey or surveys of land from which they were cut or carried, and the number cut from each and a description of the brand placed thereon, and shall file the same with the county clerk of the county in which the timber was cut, and such clerk shall record the same in a book kept for that purpose, and index it and receive therefor the sum of fifty cents from the party presenting the same; provided, this act shall not apply to pickets, post, rails or firewood.

Sec. 4. That a certificate, under the hand of the county clerk containing a description of a log brand and the name of the owner thereof, with a transfer on the back of it signed and acknowledged by such owner or proved as other instruments for record, shall be prima facie evidence that the person to whom the transfer is made owns the logs described thereon.

Sec. 5. That any person who shall buy or sell any timber or log floating, or that has been floated, in this state, before the same has been branded, shall be guilty of a misdemeanor, and upon conviction shall be fined not more than ten dollars for each log or piece of timber so purchased, sold or traded for. That any person who shall float any unbranded log or timber for market, or who shall fail to make the reports required by this act, or any person who shall brand any log or timber of another without his authority, or any person who shall deface any brand on any log or timber otherwise than when it is in the act of being sawed or manufactured into lumber or other commodity for use in building, or any person not an employe of the owner who shall, without the written consent of the owner, take into possession any branded or unbranded log or timber cut for floating or sawing, or any sawed timber, lumber or shingles floating in any of the waters of this state, or deposited upon the banks of any river or stream in this state, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding two hundred dollars for each offense. That by "lumber" is meant lumber attached or bound together in some way for floating, and not loose lumber; and by "shingles" is meant shingles in bunches or bundles, and not loose shingles.

Sec. 6. The courts of the county in which the timber or lumber was deposited in the water, or in which it was unlawfully taken into possession or unlawfully defaced, sold, purchased or branded, as the case may be, shall have jurisdiction of the violation of the act or omission complained of or constituting an offense under this act.

Sec. 7. That the near approach of the end of the session creates an imperative public necessity that the rule be suspended requiring this bill to be read on three several days, and it is therefore suspended.

Approved April 7, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER LXXII.—An act to protect the rights of pre-emption settlers who have heretofore or may hereafter enlist in the frontier battalion or other military forces of the state.

Section 1. Be it enacted by the Legislature of the State of Texas, That all pre-emption settlers who have heretofore or may hereafter enlist in the frontier battalion or other military forces of this state, prior to the completion of the three years occupancy of their respective pre-emptions required by law, shall have six months from the date of their discharge from such forces to return to and settle upon their pre-emption claims and complete the occupancy thereof; and during the time of their enlistment and the six months herein extended to them to return upon the same no such pre-emption claim shall be liable to location or pre-emption by any other person whomsoever.

Sec. 2. Whereas, an emergency and imperative public necessity exists

for the immediate passage of this act, in order that members of the frontier battalion may be protected in their pre-emption claims; therefore, this act shall take effect and be in force from and after its passage.

Approved April 7, A. D. 1879.

Takes effect on and after its passage.

CHAPTER LXXIII.—An act to amend articles 2931 and 2971 of the Revised Civil Statutes of the State of Texas, passed at the present session of the Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That articles 2931 and 2971 of the Revised Statutes of the State of Texas, passed at the present session of the Legislature, be amended so as to read as follows, to wit:

“Article 2931. Should said commissioner be satisfied that the company applying for authority has in all respects fully complied with the law, and that it has the required amount of capital stock, it shall be his duty to issue to such company a certificate of authority under the seal of his office, authorizing such company to transact insurance business in this state, naming therein the particular kind of insurance, for the period of not less than three months, nor extending beyond the thirty-first day of December next following the date of such certificate; but no subsequent certificate of authority shall be issued to any company organized under the laws of any other state or county, when it shall be made to appear that such company has removed from any court of this state, to a court of the United States for trial, any suit brought against it by a citizen of this state to recover for a loss under a policy of insurance issued by such company, and that by such removal the suit has been transferred to a place for trial without and beyond the limits of the county in which such citizen resides.”

“Article 2971. A fire insurance policy, in case of a total loss by fire of property insured, shall be held and considered to be a liquidated demand against the company for the full amount of such policy; provided, that the provisions of this article shall not apply to personal property.”

Sec. 2. The importance of the change effected by this law in affording proper protection to insurance companies, and the near approach of the close of the session, creates a public necessity for the immediate passage of this law, and the constitutional rule requiring this act to be read on three several days be and the same is hereby suspended.

Approved April 9, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER LXXIV.—An act to prescribe the times of holding the district courts in the ninth judicial district.

Section 1. Be it enacted by the Legislature of the State of Texas, That the district courts of the counties embraced in the ninth judicial district of the State of Texas, shall be hereafter held as follows: In the county of Robertson on the first Mondays in January and June, and may continue in session eight weeks; in the county of Brazos, on the first

Mondays in March and September, and may continue in session six weeks; in the county of Milam, on the third Monday in April and the third Monday in October, and may continue in session six weeks.

Sec. 2. The near approach of the close of the session creates an imperative public necessity that the rule requiring this bill to be read on three several days be suspended.

Approved April 9, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER LXXV.—An act to repeal chapter three of title sixty-four of an act to adopt and establish the Revised Civil Statutes of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That chapter three of title sixty-four of the above entitled act be and is hereby repealed.

Approved April 10, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER LXXVI.—An act to give effect to section two, article nine, of the constitution, regulating the manner of removing and locating county seats.

Section 1. Be it enacted by the Legislature of the State of Texas, That hereafter no county seat situated within five miles of the geographical centre of any county shall be removed except by a vote of two-thirds of all the electors in said county voting on the subject; nor shall any county seat be moved from a point more than five miles from the geographical centre of any county to any other point more than five miles from such centre, nor from a point within five miles of the geographical centre to any other point within five miles of such centre, except by a two-thirds vote of all the electors in said county voting on the subject; provided, that no person shall be allowed to vote except he be a bona fide citizen of the county in which he offers to vote. A majority of said electors, however, voting at such election may remove a county seat from a point more than five miles from the geographical centre of the county to a point within five miles of such centre; in either event the centre to be determined by a certificate from the commissioner of the general land office, in the manner hereinafter set forth.

Sec. 2. When it becomes desirable to remove the county seat of any county, it shall be the duty of the county judge of said county, or in case of his failure or inability to act, then any two of the county commissioners of said county upon the written application of not less than one hundred freeholders who are resident citizens of said county thereof, to make an order in writing, upon the minutes of said commissioner's court, for the holding of an election at the various voting precincts in said county on a day therein named, which shall be not less than thirty nor more than sixty days from the date of said order, for the purpose of submitting the question to the electors of said county; provided, that when a county seat has been established for a longer term than ten years, it shall require two hundred freeholders to make said application.

Sec. 3. All persons who are qualified electors under the constitution and laws of the state shall be entitled to vote at said election, and on each ticket the voter shall write or cause to be written or printed: "For removal to" (inserting the name of place); or, should the voter be in favor of the county seat remaining where the same is already located, he shall write or cause to be written or printed on his ticket: "For remaining at" (inserting the name of place).

Sec. 4. The county judge or commissioners shall order said election in each voting precinct in said county, which shall be conducted, as near as may be, as elections for county officers; and the officers holding the election shall make return thereof to the officer ordering said election within ten days after the same was held, who shall then proceed to open said returns and count the same, and declare the result, which shall be entered upon the records of said commissioners' court, and shall also state the name of the place from which the same is removed, and the name of the place to which the same is removed; and a certified copy of such entry shall thereupon be, by the county clerk of said county, recorded in the proper record of deeds of such county.

Sec. 5. When the entry mentioned in the preceding section has been made, the county seat, if the election be held to move the county seat from a point within five miles of the geographical centre to a point more or less than five miles from the geographical centre, or from a point more than five miles from the geographical centre, to any other point more than five miles from such centre, shall be removed to the place receiving two-thirds of all the electors voting on the subject, and such place shall thereafter be the county seat of such county. But if the election be held to move the county seat from a point more than five miles from the geographical centre to a point within five miles of such centre, then the county seat shall be moved to the place receiving a majority of all the electors in the county voting at such election, and such place shall thereafter be the county seat of such county.

Sec. 6. The commissioner of the general land office, upon being notified by the county judge of any county, that a proposition is submitted to the people of such county, or that it is desirable on the part of the people thereof, that the centre of such county should be designated, preliminary to the removal of any county seat, shall from the maps, surveys and other data on file in his office, designate the centre of such county, and shall certify the same to the county judge of such county, who shall cause the same to be spread upon the records of deeds of his county.

Sec. 7. That in the organization of any county or counties now existing or hereafter to be created by the Legislature, it shall be the duty of the county judge holding the election in such new county for county officers thereof to order an election for the location of a county seat therein, which shall be conducted in the same manner regulating the election of the officers of such new county, and the place receiving a majority of all the votes cast by the electors voting on the location of such county seat, shall thereafter be the county seat of such county, subject to be removed as other county seats.

Sec. 8. Until the county seats of new counties, now created, are established as required by this act, the courts of such new counties shall be held at such place as may be appointed by the county commissioners' court of such county.

Sec. 9. That whenever an election for the location or removal of a county seat shall have been voted on by the electors of any county, and

the question settled by said electors, it shall not be lawful for a like application to be made for the same purpose within five years thereafter.

Sec. 10. Any legal voter of the county may contest the result of said election, by filing within ten days after the result of said election for said county seat has been declared, his written protest against said declared result, with the clerk of the district court of said county, which protest shall contain the grounds on which said voter intends to contest said election; said voter shall at the time of filing his protest, also file with said clerk a bond, with approved security, conditioned for the payment of all costs, which bond shall be approved by said clerk as other cost bonds. And when the district court shall have obtained jurisdiction of a cause under this act, such contest shall have precedence on the docket of said court for trial over any and all other cases, nor shall such case of contest be continued for more than one term of the court. An appeal from the decision or judgment of the district court under this act shall be to the supreme court, under regulations required by law, so far as not inconsistent with this act; and so soon as such appeal is perfected to the supreme court, said court shall at once proceed to determine such appeal. Until final adjudication of such contest the county seat shall remain at the place antecedently fixed by law.

Sec. 11. That the act providing for the removal of county seats, approved May 1, 1874, and the act to amend an act entitled "an act providing for the removal of county seats, approved March 13, 1875," and all acts in conflict herewith, be and the same are hereby repealed, and that this act take effect ninety days after adjournment.

Approved April 10, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER LXXVII.—An act to amend and supplement the existing quarantine law of the State of Texas, title eighty-three of the Revised Statutes.

Section 1. Be it enacted by the Legislature of the State of Texas, That title eighty-three of the Revised Statutes shall be amended and supplemented so as hereafter to read as follows:

Article 4090. The governor is empowered to issue his proclamation declaring quarantine on the coast or any of the borders of Texas whenever in his judgment it shall be necessary, and for such length of time as he may decide to be essential to prevent the introduction of any infectious or contagious disease; provided, Houston, in Harris county, shall be considered a coast town within the meaning of this act.

Article 4090a. It shall be the duty of the governor of the State of Texas, and he is hereby authorized and empowered to select and appoint, by and with the advice and consent of the Senate, from the most skillful regular physicians of the State of Texas, one physician, who shall be known as the medical health officer for the state; that he shall, from previous and active practice, be familiar with yellow fever, and thereby as competent as possible of discriminating between it and other diseases, and pledged to the importance of both quarantine and sanitation.

Article 4090b. That he shall be of sufficient age to have acquired mature judgment, and not so old as to be inactive and incapable of active duty; and that he shall be entirely under the direction and control of the governor.

Article 4090c. That such health and quarantine officer shall, during the time he is actively engaged in public duty, receive for his services ten dollars per day and all necessary traveling expenses, a bill of which must be made out in detail and sworn to, and then approved by the governor, on which approved account the comptroller shall issue his warrant on the treasurer for the amount of such account.

Article 4090d. That when the governor is informed, or has any reason to believe that the State of Texas is threatened at any point or points with the introduction of yellow fever, cholera or plague, he shall immediately order such quarantine officer to the point or points threatened, with instructions to carefully examine into such information or alarm, and if satisfied that the report or information is true, and that there is danger to the state at such place or places of any of said diseases being introduced, the governor shall immediately declare quarantine at such place or places against the locality where such disease prevails or is said to exist, until such time as the same can be examined into and determined, having power to command state, county and municipal authorities to aid him in establishing and maintaining the same.

Article 4090e. That as soon as this is done he shall immediately report in person if possible to the governor the exact state of things, or if at such point or in such emergency as that he cannot leave the place, he shall by telegraph or mail make an exact and truthful report of the same.

Article 4090f. It shall then be discretionary with the governor to continue or dissolve such temporary quarantine as the facts set forth may justify or as subsequent developments may indicate.

Article 4090g. That the laws in regard to state quarantine shall remain and be in full force and operation on the coast and, be enforced by the governor as heretofore, with such additional changes in stations and general management as the governor may think proper and more effective.

Article 4090h. That the laws in regard to local quarantine by the inhabitants of places or points shall remain in full force; provided, that in all differences and disputes between points or places contiguous or remote within the state, such differences and disputes shall be immediately, by the local health authorities, if any, and if none, by such authorities, county or municipal, if any there be, or if none, by the inhabitants themselves, reported and submitted to the governor, and on the receipt of which he shall forthwith order the aforesaid health officer to said point or locality with instructions to investigate the same and report back to the governor the exact condition of things, and upon due investigation and deliberation the governor shall issue his proclamation declaring the determination of the issue, and by such proclamation the aforesaid disputes shall be governed.

Article 4090i. Said health and quarantine officer shall give a good and sufficient bond in the sum of ten thousand dollars, made payable to the governor, to be approved by him for the honest and impartial performance of his duties, and he shall hold his position for the space of two years, subject to removal at any time that the governor may be satisfied that the public good demands.

Article 4090j. Whenever quarantine is declared by the governor or any county authorities or corporate authorities of this state, it shall be the duty of such authority, within twenty-four hours of the issuance of such declaration, to establish a quarantine station or stations, where any

person may be detained for such length of time as in the discretion of the quarantine officers is demanded by public safety.

Article 4090k. It shall be the duty of the quarantine officers of the state or county or city authorities as the case may be, to furnish persons detained by them at quarantine stations with substance and shelter.

Article 4090l. Any person detained at any quarantine station who shall willfully absent himself from such quarantine station without leave of the officer having charge thereof, shall be guilty of a misdemeanor, and shall be fined not less than ten nor more than one thousand dollars by a court of competent jurisdiction.

Article 4090m. That all the costs and expenses of enforcing and maintaining the general quarantines, or such as are ordered by the governor for the state, shall be paid out of the fund appropriated for quarantine purposes.

Sec. 2. No quarantine officer of this state shall be empowered to draw more than ten dollars per day for such services, and all contracts made by any town, city or county authorities for a greater amount shall be disallowed by the comptroller.

Sec. 3. All quarantine officers, whether of towns, cities or counties or state, shall be authorized to administer oaths to any person suspected of violating any quarantine regulation, and any person swearing falsely, upon conviction thereof before any court of competent jurisdiction, may be punished therefor as in other cases made and provided.

Sec. 4. The near approach of the close of the session creates an imperative public necessity that the rule requiring this bill to be read on three several days be suspended, and it is so suspended, and the near approach of the sickly season creates an emergency which requires this bill to take effect from and after its passage, and it is so enacted.

Approved April 10, A. D. 1879.

Takes effect from and after its passage.

CHAPTER LXXVIII.—An act prescribing the times of holding the district courts in the first judicial district, and regulating the return of process therein.

Section 1. Be it enacted by the Legislature of the State of Texas, That the district courts of the first judicial district shall be held at the times hereinafter specified, to wit: In the county of Jasper, on the first Mondays in March and September, and may continue in session three weeks; in the county of Newton, on the third Mondays after the first Mondays in March and September, and may continue in session three weeks; in the county of Orange, on the sixth Mondays after the first Mondays in March and September, and may continue in session four weeks; in the county of Jefferson, on the tenth Mondays after the first Mondays in March and September, and may continue in session four weeks; in the county of Tyler, on the fourteenth Mondays after the first Mondays in March and September, and may continue in session until the business is disposed of.

Sec. 2. All writs and process returnable to the terms of said district courts as the same are now fixed by law shall be returnable to the first terms of said courts held under the provisions of this act, and shall be as valid in every respect as if no change in the terms of holding said courts had been made.

Sec. 3. Whereas, there is now a very large accumulation of business before the Legislature, which cannot be disposed of for want of time; and,

Whereas, the public interest in said district requires the passage of this act, thereby creating an imperative public necessity which authorizes the suspension of the rule requiring this bill to be read on three several days, and said rule is therefore suspended.

Sec. 4. Nothing contained in this act shall interfere in any manner with the holding of the next term of the district court in Jefferson county under the law now in force, fixing the time holding the district court in the said county.

Approved April 11, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER LXXIX.—An act to provide for the appointment of notaries public, cattle and hide inspectors, justices of the peace and constables in the unorganized counties of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That a suitable number of notaries public, cattle and hide inspectors, justices of the peace and constables may be appointed, as hereinafter provided, in each of the unorganized counties of the State of Texas.

Sec. 2. That the governor is hereby authorized to appoint, with the advice and consent of the Senate, one notary public and one cattle and hide inspector in each of the unorganized counties of the state, whenever he shall deem it necessary for the public welfare.

Sec. 3. That the county commissioners' courts of the several counties in this state to which unorganized counties are attached for judicial purposes shall have and are hereby given power to appoint a justice of the peace and a constable for each of the unorganized counties attached to said county for judicial purposes, in accordance with the provisions of the law now in force authorizing such appointments in organized counties.

Sec. 4. The fact that the present session of the Legislature is near its close, and the further fact that the season for the cattle drive from Texas to the north is now upon us, creates an imperative public necessity that the rule requiring bills to be read on three several days should be suspended, and an emergency exists that it take effect and be in force from and after its passage, and it is so enacted.

Approved April 11, A. D. 1879.

Takes effect from and after its passage.

CHAPTER LXXX.—An act to organize the sixteenth judicial district of the State of Texas, and to provide for the times of holding courts therein.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sixteenth judicial district of the State of Texas shall be composed of the county of Travis.

Sec. 2. That the district court of said district shall be holden in the county of Travis, on the first Mondays in January, May and October, and shall continue in session until the business is disposed of.

Sec. 3. That all process issued by or from said district court is hereby

made returnable in conformity with the provisions of this act; and that all laws and parts of laws in conflict with this act be and the same are hereby repealed.

Sec. 4. Nothing contained in this act shall prevent the holding of court in the county of Lee by the judge of the sixteenth judicial district for the term to begin on the eighth Monday after the first Monday in January, A. D. 1879, and said court shall be held by him for that term.

Sec. 5. The accumulation of business in the district court of Travis county creates an emergency for the immediate passage of this act, and an imperative necessity which justifies the suspension of the rule requiring this act to be read on three several days, and it is so suspended; and this act take effect and be in force from and after its passage.

Approved April 12, A. D. 1879.

Takes effect from and after its passage.

CHAPTER LXXXI.—An act to amend chapters nineteen and twenty of title twenty-nine, and chapters three and four of title forty-two, of "An act to adopt and establish the Revised Civil Statutes of the State of Texas."

Section 1. Be it enacted by the Legislature of the State of Texas, That article 1401 in chapter nineteen, and articles 1420 and 1438 of chapter twenty, of title twenty-nine, and articles 2385, 2389, 2392, 2395 and 2396 in chapter three, and article 2428 in chapter four, of title forty-two, of an act entitled "An act to adopt and establish the Revised Civil Statutes of the State of Texas," be and the same are hereby so amended as to read as follows:

Title 29—Chapter 19.

Article 1401. Where the appellant or plaintiff in error is unable to pay the cost of appeal or give security therefor, he shall nevertheless be entitled to prosecute his appeal; but in order to do so, he shall be required to make strict proof of his inability to pay the costs, or any part thereof. Such proof shall be made before the county judge of the county where such party resides, or before the court trying the case, and shall consist of the affidavit of said party, stating his inability to pay the costs, which affidavit may be contested by any officer of the court or party to the suit; whereupon it shall be the duty of the court trying the case, if in session, or the county judge of the county in which the suit is pending, to hear evidence and to determine the right of the party, under this act, of his appeal.

Title 29—Chapter 20.

Article 1420a. It shall be lawful for the clerks of the district and county courts and justices of the peace to demand payment of all costs due in each and every case pending in their respective courts up to the adjournment of each term of said court.

Article 1420b. Should any party against whom costs have been taxed under the provisions of this act fail or refuse to pay the same within ten days after demand for payment, it shall be lawful for the clerk or justice of the peace to make out a certified copy of the bill of costs then due, as herein provided for, and place the same in the hands of the sheriff or constable for collection, and such certified bill of costs shall have the force and effect of an execution. The removal of a case by appeal shall

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not prevent the district clerk, county clerk or justice of the peace from issuing his execution for costs at the end of the term at which the appeal is taken.

Article 1420c. It shall be lawful for the sheriff or constable, upon demand and failure to pay said bill of costs, to levy upon a sufficient amount of property of the person from whom said costs may be due to satisfy the same, and sell such property according to the law governing sales under execution; provided, where such party is not a resident of the county where such suit is pending, then payment of such costs may be demanded of his attorney of record; and neither the clerk nor justice of the peace shall be allowed to charge any fee for making out such certified bill of costs, nor shall the sheriff or constable be allowed any fee for collecting said costs, unless he is compelled to make a levy; and in case of a levy or sale, he shall charge and collect the same fees as are allowed for collecting money under other executions.

Article 1438. A party who is required to give security for costs may file with the clerk an affidavit that he is too poor to pay the costs of court and is unable to give security therefor, and it shall thereupon be the duty of the clerk to issue process and perform all other services required of him in the same manner as if security had been given; provided, the clerk or justice of the peace shall have the right to contest by proof or otherwise the inability of the party to pay costs, or his inability to give security for the same, said contest to be tried by the judge or justice of the peace at the next term after the filing of the contest.

Title 42—Chapter 3.

Article 2385. For every case of lunacy disposed of by the county judge, he shall receive three dollars, to be paid out of the county treasury. For each civil cause finally disposed of by the county judge by trial or otherwise, he shall receive a fee of three dollars, to be taxed against the party cast in the suit; provided, that if the party cast in the suit has filed his oath of inability to pay costs during the progress of the cause, or be unable to pay costs, then the county judge shall be allowed by the county commissioners' court such compensation as they may deem proper, not to exceed three dollars for each state case.

Article 2389. Clerks of the district court shall receive the following fees:

For copy of petition, including certificate and seal, each one hundred words	\$ 20
Each writ of citation	75
Docketing each cause, to be charged but once	20
Docketing each rule or motion	15
Filing each paper	15
Entering appearance of each party to a suit, to be charged but once	15
Each continuance	20
Swearing each witness	10
Administering an oath or affirmation, with certificate and seal	50
Each subpoena issued	25
Each additional name inserted in each subpoena	15
Approving bond except bond for cost	1 50
Swearing and empanneling a jury	35
Receiving and recording a verdict of jury	35
Assessing damages in each case not tried by a jury	50
Each commission to take depositions	75
Taking depositions, each one hundred words	15

Each order, judgment or decree.....	c. \$ 75
When the judgment or decree exceeds two hundred words the additional fee for each one hundred words in excess of two hundred words shall be	15
Each execution, or order of sale, writ of possession, restitution or other writ not otherwise provided for.....	75
Recording return of any writ when such return is required by law to be recorded	75
Each certificate to any facts contained in the records of his office..	75
Making out and transmitting the records and proceedings in a cause to an inferior court, for each one hundred words.....	20
Making out and transmitting the mandate or judgment of the district court upon an appeal from the county court.....	1 00
Filing a record in a cause appealed to the district court.....	50
Transcribing, comparing and verifying record books of his office, payable out of the county treasury upon warrants issued under order of commissioners' court, each one hundred words.....	10
Making transcript of the record and papers in any cause upon appeal or writ of error with certificate and seal, each one hundred words	20
Making copy of all records of judgments or papers on file in his office, for any party applying for the same, with certificate and seal, each one hundred words.....	20
Issuing a writ of scire facias and making a copy of same.....	1 00
Taxing the bill of costs in each cause with a copy of same.....	25
Issuing each license to an attorney and recording proceedings thereon	5 00
Filing and recording declaration of intention to become a citizen of the United States	2 00
Issuing certificate of naturalization.....	2 50

Title 42—Chapter 3.

Article 2392. The clerk of the district court shall receive, in addition to the fees herein allowed, for the care and preservation of the records of his office, keeping the necessary indexes and other labor of the like class, to be paid out of the county treasury on the order of the commissioners' court, such sum as said commissioners' court shall determine.

Title 42—Chapter 3.

Article 2395. For all ex-officio services in relation to roads, bridges and ferries, issuing jury scrip, and all other public services not otherwise provided for, the clerk of the county court shall receive such sum as may be allowed by the commissioners' court, not to exceed one hundred dollars annually, to be paid out of the county treasury upon the order of the commissioners' court. No county clerk shall be compelled to file or record any instrument of writing permitted or required by law to be recorded, until after payment or tender of payment of all legal fees for such filing or recording has been made. Provided, that nothing herein shall be construed to include papers or instruments filed or recorded in suits pending in the county court.

Title 42—Chapter 3.

Article 2396. Sheriffs shall receive the following fees:

Serving each original citation in a civil suit.....	c. \$1 50
Summoning each witness.....	50
Levying and returning each writ of attachment or sequestration...	2 50

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Serving each writ of garnishment, injunction or other process not otherwise provided for	\$ 1 00
Taking and approving each bond and returning the same to the proper court when necessary	1 00
Endorsing the forfeiture of any bond required to be endorsed by him	50
Levying each execution	1 50
Returning each execution	75
Executing and returning each writ of possession or restitution....	3 00
Posting the advertisements for sale under execution or any order of sale	1 00
Posting any other notices required by law not other[wise] provided for	1 00
Executing a deed to each purchaser of real estate under execution or order of sale	2 00
Executing a bill of sale to each purchaser of personal property under an execution or order of sale when demanded by the purchaser	1 00
For each cause tried in the district or county court a jury fee shall be taxed for the sheriff of.....	50
For services in designating a homestead.....	2 00

For traveling in the service of any civil process sheriffs and constables shall receive five cents for each mile, going and coming; if two or more persons are mentioned in the writ, he shall charge for the distance actually and necessarily traveled in the service of the same. Collecting money on an execution or an order of sale, when the same is made by a sale, for the first one hundred dollars or less, four per cent.; for the second one hundred dollars, three per cent; for all sums over two hundred dollars, two per cent. When the money is collected by the sheriff without a sale, one-half of the above rates shall be allowed him.

For every day the sheriff or his deputies shall attend the district or county court he shall receive two dollars a day, to be paid by the county, for each day that the sheriff by himself or a deputy shall attend said court.

Title 42—Chapter 4.

Article 2428. The preceding articles in relation to executions and payment of costs do not apply to executors, administrators or guardians, but in cases where costs are adjudged against an estate of deceased persons, or of a ward, the same shall be collected as provided in the titles "Estates of Decedents" and "Guardian and Ward."

Sec. 2. All laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 3. That the articles of the Revised Statutes herein amended fail to provide adequate compensation for the officers hereinbefore named, and the present session of the Legislature is rapidly drawing to a close, an emergency and public necessity exists for the immediate passage of this act, and that the constitutional rule requiring bills to be read on three several days in each house be suspended, and that this act shall take effect and be in force from and after its passage.

Approved April 14, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER LXXXII.—An Act to amend articles 560 and 561 of “An act to adopt and establish a Code of Criminal Procedure for the State of Texas,” as adopted by the Sixteenth Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That articles 560 and 561 of “An act to adopt and establish a Code of Criminal Procedure for the State of Texas,” as adopted by the Sixteenth Legislature, be so amended as to read as follows:

Article 560. In the first application by the defendant for a continuance it shall be necessary, if the same be on account of the absence of a witness, to state under oath, first, the name of the witness and his residence if known, or that his residence is not known; second, the diligence which has been used to procure his attendance, and it shall not be considered sufficient diligence to have caused to be issued or to have applied for a subpoena, in cases where the law authorizes the issuance of an attachment; third, the facts which are expected to be proved by the witness, and it must appear to the court that they are material; fourth, that the witness is not absent by the procurement or consent of the defendant; fifth, that the application is not made for delay; sixth that there is no reasonable expectation that the attendance of the witness can be secured during the present term of the court by a postponement of the trial to some future day of said term, and the truth of the first or any subsequent application, as well as the merit of the grounds set forth therein, and its sufficiency, shall be addressed to the sound discretion of the court called to pass upon the same, and shall not be granted as a matter of right; provided, that should an application for continuance be overruled, and the defendant convicted, if it appear upon the trial that the evidence of the witness or witnesses named in the application was of a material character, and that the facts set forth in said application were probably true, a new trial should be granted and the cause continued for the term, or postponed to a future day of same term.

Article 561. Subsequent application for continuance on the part of the defendant shall, in addition to the requisites in the preceding article, state also: First, that the testimony can not be procured from any other source known to the defendant; second, that the defendant has reasonable expectations of procuring the same at the next term of the court.

Approved April 14, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER LXXXIII.—An act creating the office of district attorney in certain judicial districts of the state.

Section 1. Be it enacted by the Legislature of the State of Texas, That a district attorney shall be elected in the second, third, fourth, fifth, seventh, eighth, ninth, eighteenth and twenty-fifth judicial districts of the State of Texas, who shall perform all the duties required of those officers by law; provided, that in counties where there is a county attorney it shall be his duty to attend the terms of the county and other inferior courts of his county, and to represent the state in all criminal cases under examination or prosecution in said county, and also to attend the terms of the district court and to represent the state in all cases in said court during the absence of the district attorney and to aid the district

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attorney when so requested; and when representing the state alone, he shall be entitled to and receive the fees allowed by law to the district attorney; and when at the request of the district attorney he shall aid him in the prosecution of any case in behalf of the state, he shall receive one-half of the fee allowed by law, and the district attorney the remainder.

Sec. 2. The governor shall immediately after the passage of this act appoint, by and with the advice and consent of the Senate, a district attorney for each of the above named judicial districts, who shall hold his office until the next general election, at which time, and at each succeeding general election a district attorney shall be elected.

Sec. 3. That the officers appointed under the provisions of this act shall hold their offices until the next general election for district and county offices, and until their successors are elected and qualified.

Sec. 4. That the urgent demand for a vigorous prosecution of criminals in this state creates an imperative public necessity and emergency that this act take effect and be in force from and after its passage, and therefore it is so enacted.

Approved April 14, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER LXXXIV.—An act to amend section four of an act entitled “An act creating the office of district attorney in certain judicial districts of this state,” passed at the present session of the Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That section four of the above recited act shall hereafter read as follows, to wit: That the urgent demands for the prosecution of criminals in this state, and the fact that this bill provides for the appointment of district attorneys by the governor, by and with the advice and consent of the Senate, and the fact that this law without this amendment would not go into effect before ninety days after adjournment of this Legislature, creates an imperative public necessity and emergency that this act take effect and be in force from and after its passage, and it is so enacted.

Sec. 2. The close of the session is drawing so near that the great public importance of this measure requires the suspension of the rule requiring this bill to be read on three several days, so that it may become a law at this session, and the public imperative necessity and emergency for the passage of this law require that it take effect from and after its passage, and it is so enacted.

Approved April 14, A. D. 1879.

Takes effect from and after its passage.

CHAPTER LXXXV.—An act to amend “An act fixing the times of holding the district courts in the seventeenth judicial district,” which was approved February 28, 1879, so as to make no changes in the time of holding court in said district except in the county of Williamson.

Section 1. Be it enacted by the Legislature of the State of Texas, That the first section of “An act entitled an act to amend an act entitled an act to fix the time for holding the terms of the district courts for

the seventeenth judicial district, including the county of McCulloch," approved February 28, 1879, be so amended as to read as follows: That the terms of courts of the seventeenth judicial district shall be held at the times and places hereinafter specified, to wit: In the county of San Saba, on the first Mondays in March and September, and may continue in session two weeks; in the county of McCulloch, on the third Mondays in March and September, and may continue in session one week; in the county of Menard, on the fourth Mondays in March and September, and may continue in session one week; in the county of Kimble, on the first Mondays after the fourth Mondays in March and September, and may continue in session one week; in the county of Mason, on the second Mondays after the fourth Mondays in March and September, and may continue in session one week; in the county of Gillespie, on the third Monday after the fourth Mondays in March and September, and may continue in session one week; in the county of Llano, on the fourth Mondays after the fourth Mondays in March and September, and may continue in session one week; in the county of Burnet, on the fifth Mondays after the fourth Mondays in March and September, and may continue in session two weeks; in the county of Lampasas, on the seventh Mondays after the fourth Mondays in March and September, and may continue in session two weeks; in the county of Williamson, on the first Mondays in July and January, and may continue in session until the business of the term is disposed of.

Sec. 2. The county of Concho is attached to the county of McCulloch for judicial purposes.

Sec. 3. All writs and process heretofore issued in conformity with law from any of the courts named in this act shall be of the same force and effect as if issued and returnable after the passage of this act, and all bail bonds and recognizances heretofore entered into shall be of the same force and effect, and as binding on the obligors thereto to secure the attendance of the principals therein as if made and entered into after the passage of this act; provided, the same are otherwise in conformity with law.

Sec. 4. That as the spring courts have already begun in said district and no change has been made in any of said courts except the county of Williamson, since the time for the passage of bills is now limited, an emergency and public necessity exist for the immediate passage of this bill, and the same shall take effect and be in force from and after its passage.

Approved April 14, A. D. 1879.

Takes effect from and after its passage.

CHAPTER LXXXVI.—An act supplemental to "An act fixing the times of holding the district courts of the twenty-third judicial district," approved February 12, 1879.

Section 1. Be it enacted by the Legislature of the State of Texas, That sections one and two of "An act fixing the times of holding the district court of the twenty-third judicial district, approved February 12, 1879," be so amended as to hereafter read as follows: "Section 1. That the district court of the twenty-third judicial district shall be holden at the times and places hereinafter specified, to wit: In the

county of DeWitt, on the first Tuesdays in March and September, and may continue in session for three weeks; in the county of Karnes, on the third Tuesdays after the first Tuesdays in March and September, and may continue in session two weeks; in the county of Bee, on the fifth Tuesdays after the first Tuesdays in March and September, and may continue in session one week; in the county of Refugio, on the sixth Tuesdays after the first Tuesdays in March and September, and may continue in session for one week; in the county of Aransas, on the seventh Tuesdays after the first Tuesdays in March and September, and may continue in session for one week; in the county of San Patricio, on the eighth Tuesdays after the first Tuesdays in March and September, and may continue in session for one week; in the county of Live Oak, on the ninth Tuesdays after the first Tuesdays in March and September, and may continue in session for two weeks; in the county of Goliad, on the eleventh Tuesdays after the first Tuesdays in March and September, and may continue in session for two weeks; in the county of Calhoun on the thirteenth Tuesdays after the first Tuesdays in March and September, and may continue in session for one week; in the county of Victoria, on the fourteenth Tuesdays after the first Tuesdays in March and September, and may continue in session until the business is disposed of.

Sec. 2. That all writs and process returnable to any of the courts of the twenty-third judicial district, as provided by the law approved August 9, 1876, shall, after the passage of this act, be returnable to the terms of the said court as herein fixed, and all writs and process returned to the courts in said district since the 12th day of February, 1879, shall be as valid and binding as if made returnable thereto. And that in order to avoid conflict and to facilitate the transaction of business in the courts of said district, an imperative public necessity and emergency exist for the passage of this act, therefore, it shall take effect and be in force from and after its passage.

Approved April 14, A. D. 1879.

Takes effect from and after its passage.

CHAPTER LXXXVII.—An act supplemental to an act entitled “an act to fix the times of holding the district courts of the twenty-fifth judicial district of the State of Texas,” approved February . . . , 1879.

Section 1. Be it enacted by the Legislature of the State of Texas, That the district courts of the twenty-fifth judicial district of the State of Texas shall be holden at the times and places herein specified, to-wit: In the county of Cameron on the third Mondays in February and August, and may continue in session four weeks; in the county of Hidalgo on the fourth Mondays after the third Mondays in February and August, and may continue in session one week; in the county of Starr on the fifth Mondays after the third Mondays in February and August, and may continue in session two weeks; in the county of Zapata on the seventh Mondays after the third Mondays in February and August, and may continue in session one week; in the county of Webb on the eighth Mondays after the third Mondays in February and August, and may continue in session two weeks; in the county of Nueces on the eleventh Mondays after the third Mondays in February and August, and may continue in session

four weeks; in the county of Duval on the fifteenth Mondays after the third Mondays in February and August, and may continue in session one week; in the county of McMullen on the sixteenth Mondays after the third Mondays in February and August, and may continue in session one week.

Sec. 2. That the unorganized county of Encinal shall be attached to the county of Webb for judicial purposes.

Sec. 3. That all writs and process returnable to any of the courts of the twenty-fifth judicial district, as fixed by the ordinance of the convention, shall, after the passage of this act, be returnable to the terms of said courts as herein fixed.

Sec. 4. That all causes now pending in other counties from the counties of McMullen and Duval, shall be sent to the said counties of McMullen and Duval, and the clerk of the district courts of the other said counties shall forthwith transmit to the clerk of the district court of McMullen and Duval counties the original papers and a transcript of all orders made in such causes.

Sec. 5. That in order to meet the convenience of the people of the twenty-fifth judicial district, in effecting the change of terms made by this act, it is an imperative necessity, and it is so enacted that this act take effect and be in force from and after its passage.

Approved April 14, A. D. 1879.

Takes effect from and after its passage.

CHAPTER LXXXVIII.—An act to amend section two of an act entitled "An act to create the thirty-second judicial district, prescribing the times of holding the district courts therein, and providing for the appointment of a district judge for said district," approved March, 22, 1879.

Section 1. Be it enacted by the Legislature of the State of Texas, That section two of the above recited act be so amended as hereafter to read as follows:

Section 2. The district courts in the counties composing the said thirty-second judicial district shall be held as follows: In the county of Washington, on the first Mondays in March and September, and may continue in session eight weeks; in the county of Lee, on the first Mondays in May and November, and may continue in session four weeks; in the county of Burleson, on the first Mondays in June and December, and may continue in session four weeks.

Sec. 2. The fact that the present session of the Legislature is near its close creates an imperative public necessity that the rule requiring this act to be read on three several days be suspended; and the fact that under the above recited act the district court in Washington county will convene on the first Monday in July, creates an emergency, and it is enacted that this act take effect and be in force from and after its passage.

Approved April 14, A. D. 1879.

Takes effect from and after its passage.

CHAPTER LXXXIX.—An act to amend article 3649 of the Revised Civil Statutes, passed February 21, 1879.

Section 1. Be it enacted by the Legislature of the State of Texas, That article 3649 of the Revised Civil Statutes shall be so amended as hereafter to read as follows:

Article 3649. The rate of pilotage on any class of vessels shall not in any port of this state exceed four dollars for each foot of water which the vessel at the time of piloting draws, and whenever a vessel, except of the classes below excepted, shall decline the service of a pilot offered outside the bar, and shall enter the port without the aid of one, she shall be liable to the first pilot whose services she so declined for the payment of half pilotage; and any vessel which after being brought in by a pilot shall go out without employing one shall be liable to the payment of half pilotage to the pilot who brought her in, or if she has come in without the aid of a pilot, though offered outside, she shall in so going out be liable for the payment of half pilotage to the pilot who had first offered his services before she came in; but if she has come in without the aid of a pilot, or the offer of it outside, she shall in case of going out without a pilot not be liable to half pilotage. At any port where vessels shall receive or discharge their cargoes at an anchorage outside of the bar, such vessels shall be liable for pilotage at the above rate to such anchorage, but shall not be liable for or compelled to pay pilotage from such anchorage to the open sea; and if any vessel bound from the open sea to such anchorage while under way shall decline the services of a pilot, and shall afterwards receive or discharge any portion of her cargo at such anchorage on the lighters or otherwise, she shall be liable for the payment of half pilotage at the above rates to such anchorage to the first pilot whose services shall have been tendered to and declined by her, but not liable for any pilotage from such anchorage to the open sea; and when a pilot takes charge of a vessel twenty miles outside of the bar and brings her to it, he shall be entitled to one-fourth pilotage for such off-shore service, in addition to what he is entitled to recover for bringing her in; but if such off-shore service be declined, no portion of said compensation shall be recovered.

Sec. 2. Owing to the near approach of the close of the session, and in order to carry out the provisions of section twenty-two, article four of the constitution; and whereas, there is no law governing pilotage on vessels anchoring and unloading outside the bars at the different passes in the state, there exists an imperative public necessity and an emergency for the suspension of the constitutional rule requiring bills to be read on three several days, and the immediate passage of this act; it is therefore enacted that this act take effect and be in force from and after its passage.

Approved April 14, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER XC—An act amendatory of an act entitled "An act to prohibit the sale, exchange or gift of intoxicating liquors in any county, justice's precinct, city or town in this state, that may so elect, prescribing the mode of election and affixing a punishment for its violation," approved June 24, 1876.

Section 1. Be it enacted by the Legislature of the State of Texas, That the first section of the above recited act be so amended as to hereafter read as follows:

Section 1. That it shall be the duty of the commissioners' court of each county in the state, upon the written petition of fifty qualified voters of said county, or upon such petition by twenty qualified voters of any justice's precinct, town or city therein, to order an election to be held by the qualified voters of said county, justice's precinct, town or city, as the case may be, to determine whether the sale of intoxicating liquors and medicated bitters producing intoxication, shall be prohibited in such county, justice's precinct, town or city, or not; provided, that nothing herein contained shall be construed to prohibit the sale of wines for sacramental purposes, nor alcoholic stimulants in cases of actual sickness; and that each sale in cases of sickness shall be made solely upon the written prescription of a regular practicing physician certifying on honor that he has personally examined the applicant, and that the same is actually necessary as a medicine; provided further, that any physician who does not follow his profession exclusively, or who is in any manner directly or indirectly engaged in the sale of such stimulants for himself or as the agent for others, or in any way interested in the sale thereof, shall not be authorized to give the prescription provided for in this act, and such prescription shall not protect the seller; provided further, that no person shall be permitted to sell more than once upon the same prescription.

Sec. 2. That section 5 be amended so as to read as follows:

Section 5. When any such election has been held, and has resulted in favor of prohibition, and the aforesaid court has made the order declaring the result and the order of prohibition, and has caused the same to be published as aforesaid; any person or persons who shall thereafter, within the prescribed bounds of prohibition, sell, exchange or give away except as provided in this act, any intoxicating liquors whatsoever, or in any way violate any of the provisions of this act, shall be subject to prosecution by indictment, information or complaint, and shall be punished by fine, in any sum not less than fifty, nor more than one hundred dollars, and by imprisonment in the county jail not less than five nor more than thirty days, or by such imprisonment without fine. And any physician who shall issue a prescription for alcoholic stimulants, without a personal examination of the applicant, or where the applicant is not actually sick, shall be subject to prosecution by indictment, information or complaint, and shall be punished by fine not to exceed one hundred dollars, and by imprisonment in the county jail, not less than five nor more than ten days, or by such imprisonment without fine.

Sec. 3. The near approach of the close of the session of the Legislature makes it an imperative public necessity that the rule requiring this bill to be read on three several days be suspended, and it is so enacted.

Approved April 17, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER XCI.—An act for the preservation of fish, and to build fish-ways and fish-ladders.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be the duty of all persons, firms or corporations, who have erected, or who may hereafter erect, any mill-dam, water-weirs, or other obstructions, on rivers or streams within the waters of this state, within

six months after the passage of this act, to construct and keep in repair fish-ways, or fish-ladders at such mill-dam, water-weirs, or obstructions, so that all seasons of the year fish may ascend above such dam, weirs, or obstructions, to deposit their spawn. Any person, firm or corporation, owning such mill-dam or obstructions, who shall fail or refuse to construct or keep in repair such fish-ways or fish-ladders, after having been notified and required by the fish commissioner to do so, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars nor less than twenty-five for every such neglect or refusal. The governor is hereby authorized to appoint a fish commissioner, who shall serve without compensation, whose duty it shall be to see that the provisions of this act are complied with.

Sec. 2. All prosecutions under this act shall be commenced within two months from the time when such offense was committed, and the same shall be upon complaint under oath before any justice of the peace, recorder or mayor of any city in the county where the offense was committed or where the defendant may reside or be found; and all fines imposed and collected under this act shall be paid one-half to the complainant.

Sec. 3. All laws and parts of law which conflict with the provisions of this act be and the same are hereby repealed.

Sec. 4. This act shall take effect and be in force on and after the first day of July, 1879.

Approved April 17, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER XCII.—An Act to require persons enclosing public free school lands to pay an annual rent therefor.

Whereas, Many persons in this state have enclosed a large portion of the public free school lands, and have thus severed them from the public common and are using them for pasturage to the exclusion of all others, thereby giving a just cause of complaint; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That each and every person who shall have enclosed by fencing or otherwise any of the public free school land belonging to the state, and shall use the same to the exclusion of the public, shall pay an annual rental value therefor of the sum of twenty-five dollars for each section so enclosed.

Sec. 2. And it shall be the duty of the surveyor of each county to make a report to the county commissioner's court on the first Monday in June in each year of the number of sections of public school lands in his county enclosed during the past year, and the names of the person or persons controlling such enclosed lands, and the number of sections controlled by him or them respectively.

Sec. 3. And the said court at the first regular term thereafter, shall make a list of the names of the persons controlling such public free school lands, the number of sections so controlled by each person and the aggregate amount due from each person, at the rate of twenty-five dollars for each section so enclosed and controlled; which list shall be recorded by the clerk of said court and a certified copy thereof forwarded by him to the comptroller of public accounts, and a like copy delivered to the collector of taxes for said county.

Sec. 4. The collector of taxes on the receipt of such list shall proceed to collect the same under the same provisions and penalties as is imposed by law for the collection of taxes.

Sec. 5. That all moneys collected under the provisions of this act shall be paid by the collector into the state treasury and constitute a part of the available school fund; provided, that the state may resume control of said land at any time.

Sec. 6. Any person who shall control enclosed lands belonging to the public free schools and fail to pay the rental value as specified under the provisions of this act upon the demand of the collector, shall be subject to prosecution upon complaint, information or indictment, and fined in the sum of one hundred dollars for each section so enclosed.

Sec. 7. Whereas, this act is of demanding importance to the state; and, whereas, the near approach of the final adjournment of the present session of the Legislature creates an imperative public necessity for its passage; and, whereas, the constitutional rule requires this bill to be read on three several days, unless said rule is suspended; therefore be it enacted that said constitutional rule is hereby suspended, and it is so enacted.

Approved April 17, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER XCIII.—An act to attach the county of Concho to the twentieth judicial district, and to fix the time for holding the district courts therein.

Section 1. Be it enacted by the Legislature of the State of Texas, That the county of Concho be and the same is hereby attached to the twentieth judicial district, and that the district court be holden in said county on the fourteenth Mondays after the first Mondays in March and September of each year, and may continue in session two weeks.

Sec. 2. That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

Sec. 3. That, whereas, said county is duly organized and entitled to have the courts held therein; and, whereas, this session of the Legislature is so near its close that this bill cannot be passed without a suspension of the constitutional rule requiring bills to be read on three several days, an emergency and imperative public necessity exist for the suspension of said rule and for the immediate passage of this act; it shall therefore take effect and be in force from and after its passage.

Approved April 17, A. D. 1879.

Takes effect from and after its passage.

CHAPTER XCIV.—An act to amend articles 130 and 132 of an act entitled "An act to adopt and establish the Revised Civil Statutes of the State of Texas," passed at the present session of the Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That articles 130 and 132 of the Revised Civil Statutes of the State of Texas, shall hereafter read as follows, viz:

Article 130. The governor shall appoint, by and with the advice and consent of the Senate, a superintendent of each of said asylums, who shall hold his office, unless sooner removed, for the term of two years, and in case of vacancy the appointment shall only be made for the unexpired term, and the terms of such officers shall in any event expire with the term of the governor making such appointment.

Article 132. The superintendent of either asylum may be removed from office by the governor at any time when he deems the public interest demands it, and in case of such removal the governor shall report such fact, together with his reasons therefor, to the next succeeding session of the Legislature.

Sec. 2. That all laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 3. There being no adequate law now in force providing for the appointment and removal of these officers, and it being uncertain as to their terms of office, an imperative public necessity exists that this act take effect at once, it shall therefore take effect and be in force from and after its passage.

Approved April 17, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER XCV.—An act requiring railroad companies to stop their trains at the boundary lines of the State of Texas for a certain length of time.

Section 1. Be it enacted by the Legislature of the State of Texas, That any railroad or railway company in this state, whose line of road does now or may hereafter terminate at the boundary line of this state, shall stop its trains at least thirty minutes at said line, or at their depot established thereat; provided, said company have a depot within three hundred yards of said line; and any railroad or railway company, its conductors, engineers, or agents in charge of any such train failing or refusing to comply with the provisions of this act, shall be fined in a sum not less than fifty dollars, nor more than two hundred dollars for every such violation, one-half of said fine to be paid to the informant and the other half to be paid into the county treasury.

Sec. 2. Whereas, the evils which it is the design of this act to remedy are of a character so serious as to create an emergency and imperative public necessity for this act to take effect and go into force from and after its passage, therefore, it is so enacted.

Approved April 18, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER XCVI.—An act to amend title twenty-nine, chapter six, article 1235 of the Revised Civil Statutes, passed at the present session of the Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That article 1235 of the Revised Civil Statutes shall be so amended as to hereafter read as follows, to wit:

Article 1235. Where any party to the suit, his agent or attorney, shall make oath at the time of instituting the suit, or at any time during its progress, that the party defendant is a non-resident of the state, or that he is absent from the state, or that he is a transient person, or that his residence is unknown to the affiant, the clerk shall issue a citation for the defendant, addressed to the sheriff or any constable of the county in which the suit is pending. Such citation shall contain a brief statement of the cause of action, and shall command the officer to summon the defendant by making publication of the citation in some newspaper published in his county, if there be a newspaper published therein, but if not, then in any newspaper published in the judicial district where the suit is pending; but if there be no newspaper published in such judicial district, then it shall be published in the nearest district to the district where the suit is pending. Such citation shall be published once in each week for four successive weeks previous to the return day thereof.

Approved April 18, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER XCVII.—An act to amend article 1289 of “an act to adopt and establish the Revised Civil Statutes of the State of Texas.”

Section 1. Be it enacted by the Legislature of the State of Texas, That article 1289 of the above entitled act be so amended as to hereafter read as follows:

Article 1289. The court shall, in all counties where the terms lasts two weeks or under, at the first term after the passage of this act, by an order entered on the minutes, designate a day of the term for taking up for trial the causes on the jury civil docket; and in all counties where the term continues three weeks or longer, the court shall, at its first term after the passage of this act, by a like order entered on the minutes, designate a day of the term, not earlier than the first day of the second week of the term, for the taking up and trial of causes on the jury civil docket; and the day so designated shall be the time for taking up for trial the causes on the jury civil docket at all subsequent terms, until changed by a like order; but in case of change, it shall not take effect until the succeeding term of said court. In all causes in which juries have been demanded by either party, all questions of law, demurrers, exceptions to pleadings shall by the court be heard and determined before the day designated for the trial of said jury causes; and all jurors shall be summoned to appear on the day of the term so designated.

Sec. 2. That the present session of the Legislature being near its close, an imperative public necessity exists for the suspension of the constitutional rule requiring this bill to be read on three several days, and it is so suspended.

Approved April 18, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER XCVIII.—An act to amend articles 75 and 79 of "An act entitled an act to adopt and establish the Revised Civil Statutes of the State of Texas," passed at the present session of the Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That articles 75 and 79 of the Revised Civil Statutes of the State of Texas shall hereafter read as follows, viz:

Article 75. The governor of this state shall appoint, by and with the advice and consent of the Senate, a superintendent of the Lunatic Asylum, who shall, unless sooner removed, hold his office for the term of two years, and in case of a vacancy in said office, the appointment shall be only for the unexpired term, and the term of such officer shall in any event expire with the term of the governor making the appointment.

Article 79. The superintendent may be removed from office by the governor at any time when he deems the public interest demands it, and in case of removal, the governor shall report such fact, together with his reasons therefor, to the next succeeding session of the Legislature.

Sec. 2. That all laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 3. There being no adequate law now in force providing for the removal or appointment of a superintendent of the Lunatic Asylum an imperative public necessity exists requiring that this act take effect at once, it shall therefore take effect and be in force from and after its passage.

Approved April 18, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER XCIX.—An act to provide for transcribing county records in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be the duty of the county commissioners' court of any county in this state which may have been created either in whole or in part from the territory of any other county or counties in this state, or to which may have been added since its creation the territory of any other county or counties in this state, to procure a well bound book or books, as the case may be, and require the county clerk to transcribe or have transcribed from the record of said other county or counties by a sworn deputy, all the deeds, mortgages, conveyances, incumbrances and muniments of title, affecting or in any wise relating to all lands and real property which are or may be embraced in the territory so acquired from another county or counties and which deeds, mortgages, conveyances, incumbrances and muniments of title appear of record in the said county or counties from which said territory may have been taken as having been there recorded prior to the transfer of territory as aforesaid, and when the acquired territory may have been from more than one county then the clerk shall provide a separate record book for each county, which said book or books shall be indexed and arranged as is now required for record books in case of deeds and mortgages.

Sec. 2. Said records shall be transcribed in a plain legible hand, and with some standard ink of a permanent black color, and when so tran-

scribed shall be carefully compared with the original record by the said clerk or sworn deputy so transcribing the same, assisted by some other sworn deputy.

Sec. 3. Be it further enacted, That when said record or records shall have been found to be truly and correctly transcribed, the county clerk with the sworn deputies so transcribing and verifying the same shall certify under their official oath of office at the conclusion of the record with the impress of the seal of said court affixed on the same page the correctness of the same, after which said transcribed record or records shall have all the force and effect in judicial proceedings in the courts of this state as the original records.

Sec. 4. That the county clerk or person making such transcript shall be entitled to compensation therefor at the rate of fifteen cents for one hundred words, and for comparing and verifying the same, payable out of the county treasury upon warrant issued under order of the commissioners' court.

Sec. 5. That as the session is drawing to a close and there is no law now authorizing the transcribing of county records, therefore a public imperative necessity and emergency exist that the rules be suspended which require this bill to be read on three several days, that it may become a law at this session.

Approved April 18, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER C.—An act prescribing the time of holding the district courts in the twenty-second judicial district.

Section 1. Be it enacted by the Legislature of the State of Texas, That the district courts of the twenty-second judicial district shall be held as hereinafter specified in each year, to wit: In the county of Comal, on the third Mondays in January and September, and may continue in session two weeks; in the county of Atascosa, on the third Mondays in October and April, and may continue in session two weeks; in the county of Bexar, on the first Mondays in November, February and May and may continue in session from said first Mondays in November and February ten weeks, and from said first Monday in May eight weeks; provided, that the first term of the said district court held under the provisions of this act shall be held as herein directed in Comal county.

Sec. 2. All writs and process returnable to said district courts as heretofore fixed, shall be returnable to the first terms of said courts held under the provisions of this act; and all process shall be valid as if no change in the time of holding said courts had been made.

Sec. 3. All laws and parts of laws in conflict with the provisions of this act shall be and the same are hereby repealed.

Sec. 4. The fact that the present session of the Legislature is approaching conclusion creates an imperative public necessity for the immediate passage of this act, and the fact that the terms of court as herein fixed are near at hand, creates a public emergency, it is therefore enacted that this act take effect from and after its passage.

Approved April 18, A. D. 1879.

Takes effect from and after its passage.

CHAPTER CI.—An act to amend section one of an act to amend sections six and nine of “an act to define a lawful fence, and to carry into effect sections twenty-two and twenty-three, article sixteen of the constitution of the State of Texas, authorizing the passage of stock and fence laws, approved August 15, 1876,” passed at the present session of the Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That section 1 of the above entitled act, passed at this session of the Legislature, be and the same is hereby amended so as to hereafter read as follows, viz:

Section 1. That section 6 of the above entitled act approved August 15, 1876, be and the same is hereby amended so as to hereafter read as follows: Section 6. Should any stock not permitted to run at large enter within the enclosure of any owner or lessee of land entitled to the benefit of this act, without his or their consent, it shall be lawful for the owner or lessee of said enclosure to impound said stock; and it shall be the duty of the owner or lessee of said land to give notice immediately to the owner of said stock of their impounding and detention, and the owner of said stock shall be entitled to the possession of his or her stock on the payment of the expenses incurred in impounding and keeping said stock; provided, that in such county or subdivision said owners or lessees shall not be required to fence against stock not permitted to run at large. That three strands of barbed wire, with posts not further apart than fifteen feet, with a board not less than four inches wide and one-half inch thick hung to the top wire; or two strands of barbed wire and a board not less than five inches wide and one inch thick; or two strands of barbed wire and a rail; when boards are used, three boards, to be not less than five inches wide and one inch thick; or four rails; if made of boards or rails, the posts to be not more than eight feet apart; when pickets are used, the pickets to be not more than six inches apart; all fencing built within the provisions of this act shall be not less than four and a half feet high, and shall be deemed a lawful fence; and, provided further, that the interval between the posts in barbed wire fences, as provided in this section, may be increased or diminished by order of the county commissioner's court of any county.

Sec. 2. Whereas, the defect growing out of a clerical omission in section one of the above recited act, as engrossed, permits the building of fences insufficient to prevent the passage of stock allowed to run at large and may cause great injury and loss, an emergency and imperative public necessity thereby arise for immediate legislation; therefore the rule requiring this act to be read on three several days is hereby suspended, and this act shall take effect from and after its passage.

Approved April 18, A. D. 1879.

Takes effect from and after its passage.

CHAPTER CII.—An act to amend section five of article sixteen, title four, of “An act to adopt and establish the Revised Civil Statutes of the State of Texas,” approved February, 1879.

Section 1. Be it enacted by the Legislature of the State of Texas, That section five of the above recited act shall be amended so as to read as follows: “The following counties shall compose the fifth congress-

ional district, to wit: Galveston, Brazoria, Matagorda, Wharton, Austin, Colorado, Lavaca, Fayette, Washington, Burleson, Bastrop, Travis, Williamson, Milam, Burnet, Lampasas, Brown, Coleman, Runnels, San Saba, Concho, McCulloch and Lee."

Sec. 2. Whereas, the county of Lee, by the law now in force, is not attached to any congressional district, and it being important that the voters of that county should have the right to vote for candidates for congress, creates an emergency that the rule be suspended requiring bills to be read on three several days, so that this bill be passed immediately, it is therefore enacted that the rules be and they are hereby suspended, and this act shall take effect from and after its passage.

Approved April 18, A. D. 1879.

Takes effect from and after its passage.

CHAPTER CIII.—An act to validate certain acts of notaries public who have used seals with the word "Texas" engraved between the points of the star thereon instead of around the margin thereof.

Section 1. Be it enacted by the Legislature of the State of Texas, That all acts of notaries public appointed by authority of the laws of the State of Texas, evidenced by the impress of a notarial seal having the word "Texas" engraved between the points of the star thereon, shall be and they are hereby made as valid and binding as though the word "Texas" had been engraved on the margin of the seal.

Sec. 2. The lateness of the session creates an imperative public necessity that the rule be suspended requiring this bill to be read on three several days in each house, and it is so suspended, and the uncertainty now existing as to the effect to be given to notarial acts evidenced by seals with the word "Texas" between the points of the star, creates an emergency requiring that this act should take effect and be in force from and after its passage, and it is so enacted.

Approved April 18, A. D. 1879.

Takes effect from and after its passage.

CHAPTER CIV.—An act to limit the terms of the district court of Marion county.

Section 1. Be it enacted by the Legislature of the State of Texas, That the district court of Marion county shall be holden on the eleventh Mondays after the first Mondays in February and September, and may continue in session four weeks.

Sec. 2. All laws conflicting with the provisions of this act be and the same are hereby repealed.

Sec. 3. That the near approach of the adjournment of the present session of the Legislature and the importance of the passage of this act in the interest of Marion county renders it an imperative necessity that the constitutional rule requiring bills to be read on three several days be suspended and the bill take effect from its passage, and it is so enacted.

Approved April 18, A. D. 1879.

Takes effect from and after its passage.

CHAPTER CV.—An act to authorize any county, city or town in this state to compromise existing bonded indebtedness, and to issue new bonds to be sold or exchanged for this purpose, and to provide for the efficient collection of taxes to pay the principal and interest of such new bonds.

Whereas, In some of the counties, cities and towns in this state there is an existing bonded indebtedness against the same, necessitating the collection of an overdue tax upon the people to pay the interest and provide a sinking fund, as required by law for the ultimate extinguishment of said indebtedness;

And whereas, It is believed a satisfactory adjustment, settlement and compromise of much of said indebtedness could be effected between said counties, cities and towns, and the holders of such indebtedness, if duly authorized by law, by which such indebtedness would be greatly reduced, and the taxation necessary to meet the same greatly lessened in amount;

And whereas, The accomplishment of this adjustment, settlement and compromise is a great public necessity, which requires the rules to be suspended that this act may become a law at the present session of the Legislature, and that it take effect and be in force from and after its passage, therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the county commissioners' court of any county, or the mayor and board of aldermen of any city or town in this state, are hereby authorized and empowered to compromise and fund any existing bonded indebtedness by such county, city or town issued, and the coupons due thereon, to aid in the construction of railroads or other works of internal improvement, or other bonds issued by authority of law; and for this purpose they are hereby authorized and empowered to issue new bonds in denomination of not less than fifty nor more than one hundred dollars, in their discretion, with interest coupons payable annually at the office of the state treasurer; said new bonds to become due and payable in twenty years, and to bear such rate of interest, not exceeding eight per cent. per annum, as in their discretion may best subserve the purpose intended by this act.

Sec. 2. No compromise shall be made under the provisions of this act, by which any debt now barred by the statute of limitation, or which may be barred at the time of such compromise shall be received, nor shall such new bonds, to be used in funding the principal of such old bonds be issued for any greater amount than three-fourths of the principal of the old bonds outstanding; provided, that when the rate of interest of such new bonds is not more than five per cent. per annum, then new bonds may be issued to the full amount of the old bonds outstanding; and provided further, that the amount of new bonds to be issued for the funding of the matured interest shall be left to the discretion of the county commissioners' court or the mayor and board of aldermen as the case may be, but in no case to exceed the amount of such matured interest.

Sec. 3. The new bonds then issued by any county shall be exempt from the payment of all county taxes, general and special, in the county by which they are issued; and the new bonds then issued by any city or town shall be exempt from the payment of all taxes levied by such city or town.

Sec. 4. That the county commissioners' court or mayor and board of aldermen, as the case may be, shall cause to be prepared the necessary blank bonds to give effect to the provisions of this act, the cost of which shall be paid out of the treasury of such county, city or town; said bonds, when issued by any county, shall be signed by the county judge and attested by the county clerk of such county, with the seal of the county court affixed; and when issued by any city or town, shall be signed by the mayor and attested by the recorder (or secretary if there be no recorder), with the seal of such city or town affixed; and such new bonds, whether issued by any county, city or town, shall be registered in the office of the state comptroller.

Sec. 5. Such new bonds may be exchanged for the old bonds at the rate specified in the second section of this act, or they may be sold and the proceeds applied to the purchase of such old bonds at the rate specified in said second section; provided, that no delivery of such new bonds shall take place unless a contract has already been entered into for the purchase of a corresponding amount of such old bonds; and, provided further, no bonds issued under this act shall be sold at less than par, each bond sold shall be made to bear the lowest rate of interest that will give it a par value.

Sec. 6. That all laws now in force, providing for the collection of taxes for the payment of the principal and interest of such existing bonds, shall apply and be in force for the collection of taxes for the payment of the principal and interest of such new bonds; provided, that the sinking fund may be used in the purchase and cancellation of such new bonds whenever the same can be bought at not more than their par value.

Sec. 7. The object and intention of this act being to enable the counties, cities or towns in this state which have granted subsidy bonds to railroads or other works of internal improvement, or created any bonded indebtedness whatever to compromise the same, and thereby reduce the burden of taxation, it is hereby declared as an inducement to the holders of said bonds to accept the compromise, that whenever such compromise shall be entered into and accepted in good faith, either by the holder of the present bonds or by any person purchasing said new bonds as provided in this act; that all laws now in force or which may hereafter be in force for the assessment and collection of the state taxes, shall also be in force and apply to the assessment and collection of the taxes levied to meet the interest and sinking fund of said new bonds; and in any suits which may hereafter be instituted to enforce the payment of said new bonds or coupons against any such county, city or town, no defense either in law or equity, shall be admitted in any of the courts of this state, except such as originated upon or subsequent to the issuance of such new bonds.

Sec. 8. Whenever a collector of taxes shall neglect or refuse to collect the taxes levied for the payment of the interest and sinking fund of such new bonds, he shall be liable on his official bond at the suit of any person or persons holding any of said bonds or coupons, for all such damages as said person or persons shall have sustained by reason of his neglect or refusal; nor shall such collector or his sureties be relieved of such liability by his resignation of the office, and whenever any person who may be elected collector of taxes of any county, city or town shall fail, neglect or refuse to give the bond required by law for the collection of such tax, or whenever the commissioners' court or the mayor and board of

aldermen, as the case may be, shall appoint any person who shall fail, neglect or refuse to give said bond, or whenever they shall fail, neglect or refuse to appoint some person who will give said bond and collect said tax, then it is hereby made the duty of the governor to appoint some suitable person to collect said taxes, who shall perform all the duties required by this act or any other law of this state relating to the collection of said taxes from the time of his said appointment until the next general election.

Sec. 9. No compromise which may be agreed upon between the commissioners' court or the mayor and board of aldermen, as the case may be, and the bondholders or others, shall be binding upon the taxpayers of any county, city or town until the terms of said compromise shall have been submitted to a vote of the property taxpayers at an election held by order of the commissioners' court, or mayor and board of aldermen, as the case may be, and a majority of the said taxpayers shall vote in favor of and ratify the terms of said compromise; said election shall be held in accordance with the general law regulating elections; provided, that none but property taxpayers shall vote at any such election; provided, further, that notice of such election shall be published for thirty days in some newspaper published in the county, city or town, as the case may be; and in case there shall be no paper published in such county, city or town, then by posting in ten public places in such county, city or town, as the case may be, for thirty days prior to any election under this act.

Sec. 10. That this act shall not be construed to repeal an act entitled "An act to authorize counties, cities and towns to scale and fund their indebtedness, and for raising means to pay the same," approved March 26, A. D. 1879, except in so far as said act may apply to bonds issued under an act entitled "An act to authorize counties, cities and towns to aid in the construction of railroads and other works of internal improvement," approved April 12, 1871, and to that extent it is hereby repealed.

Sec. 11. That this act take effect and be in force from and after its passage.

Approved April 18, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CVI.—An act to provide for building a new state capitol.

Section 1. Be it enacted by the Legislature of the State of Texas, That so soon as the commissioner appointed to superintend the setting aside of the public domain appropriated for the erection of a new state capitol and other public buildings shall have made his report in a well bound book showing the character of said land, the governor, comptroller and secretary of state, shall, from such report and any other information deemed reliable, estimate the real value of the lands set aside, which estimate shall be entered of record in the office of the secretary of State, and be signed by them.

Sec. 2. There shall be appointed, as soon as said estimate is made, by the governor, comptroller, state treasurer, attorney general and commissioner of the general land office, acting as a board, a superintendent, who shall be a skillful architect, and two building commissioners, who, before entering upon the duties of their offices, shall each enter into bond with two or more good securities, each in the sum of ten thousand

dollars, conditioned for the faithful performance of their duties under this act, payable to the State of Texas, to be approved by the governor and filed in the office of the state comptroller, and snall also take and subscribe the following oath to be endorsed on said bond (to be administered by any one authorized to administer oaths), to wit: "I (A. B.) do solemnly swear that I will not directly or indirectly be interested or concerned with any contractor or contractors for the erection of the state capitol or any portion thereof, or in the proceeds or profits growing out of the same, or any work or labor done thereon, or material furnished in the erection of the same, or any portion thereof, during the term for which I am appointed, so help me God." And any one of said officers offending against the true intent and meaning of this oath shall, upon indictment and conviction, suffer all the pains and penalties of perjury; and in case of a violation of the conditions of the bonds provided for, shall be liable to an action thereon in the district court of Travis county, and to judgment for such damages as may be awarded against the obligors thereto by reason of the failure of the principal.

Sec. 3. It shall be the duty of said commissioners as soon as they shall have qualified as provided for in the foregoing section, to advertise for suitable plans for said building at a cost not to exceed five hundred dollars for advertisements and the plan and specifications which may be adopted, and said amount shall be drawn by said commissioners on their certificate deposited with the comptroller. Said advertisements shall specify that building plans and specifications must be made for a building to cost the amount which the governor and said heads of departments have estimated the land set aside for a new capitol to be worth, said commissioners and superintendent shall select the plans and specifications deemed most suitable for the capitol, subject to the approval of the governor and heads of departments; provided, that the original of said plan and specifications shall be deposited with the state comptroller, and shall be by him safely kept.

Sec. 4. After a plan and specification have been adopted, said commissioners shall advertise in at least six newspapers published in Texas, and one in each of the cities of St. Louis, Chicago and New York, for bids for the construction of said capitol, which advertisement shall contain a general description of the building to be erected. No sale shall be made of the lands set aside to build the capitol, except enough to defray expenses of surveying the same until such advertisement has been printed in all said papers for at least three months, and said commissioners shall with the approval of the governor contract with such responsible bidder as will construct the new capitol in a period to be determined by the governor and heads of departments for the smallest amount of said public domain so set aside, on such bidder entering into bond with the State of Texas to faithfully carry out his contract, with securities to be approved by the governor. Said bond shall be in the sum of two hundred and fifty thousand dollars, and shall be deposited with the comptroller.

Sec. 5. Should no bids be made to construct said capitol and receive pay therefor in land, the said commissioners shall proceed to let out (after four weeks advertisement in six newspapers published in different portions of the state for sealed proposals) to the lowest bidders, the said building in several contracts, dividing the different articles to be furnished and work to be done as in their judgment (subject to the control of the governor and heads of departments) may be best; provided, however,

they shall not be required to let out the several contracts at the same time, but the same shall be let under instructions from the governor as means shall be realized at the rates of value provided for in section one, from the sales of the land appropriated; which money when realized is hereby appropriated to build said capitol.

Sec. 6. Should the commissioners be satisfied that any lowest bidder is not competent to the performance of his contract, or should he fail within twenty days to execute the bond hereinafter required, they may give such contract to the next lowest and best. They shall require the person or persons taking such contracts to enter into bond in double the amount of their respective bids payable to the State of Texas, with two or more good securities to be approved by said commissioners, conditioned for the faithful performance of the contract, and for the payment of such damages as may be sustained by reason of a failure therein, which bonds shall be deposited by said commissioners in the comptroller's office.

Sec. 7. The superintendent shall receive an annual salary of fifteen hundred dollars, and each of the commissioners a like salary of five hundred dollars each, to be paid only while the work of constructing the capitol is in progress.

Sec. 8. It shall be the duty of the superintendent to give his constant personal attention to the work as it progresses, and to see that each and every portion of the same is executed in the manner provided in the various contracts, and from time to time to report to said commissioners the progress of the various contracts and the manner in which they are being executed. It shall be his special duty to note every departure from any contract on the part of the contractor or any failure to perform in the manner stipulated, and give notice thereof in writing to said commissioners at his earliest convenience. He shall at all times, at the request of said commissioners give them such information touching the progress of the work, the manner of its execution, the performance of contractors and other things deemed important, as may be in his power, and shall also accompany said commissioners in their periodical visits of inspection, and give such explanation as may be required by them.

Sec. 9. It shall be the duty of said commissioners, on the first Monday in every month, while the work progresses, to inspect the work on said building, and to inquire into the manner in which the various contracts are being executed; and if they shall find any portion of the work done, or material furnished under any contract, of a character less valuable than stipulated for in said contract, they shall immediately give notice to the contractor that said work or material, as the case may be, will not be received; and unless such contractor immediately signifies his intention of procuring the proper material, or of reconstructing the work, as the case may be, or in case he shall so signify and shall fail to furnish such material, or perform such work within a reasonable time, said commissioners shall make known to him that his contract is at an end; and such contract shall be relet as originally provided for in this act; provided, however, if the said contractor shall have furnished any material, or done any work such as was contracted for, the said commissioners shall have the right, if in their judgment (subject to the approval of the governor), it is equitable and right, to allow the part its value, and may issue their draft on the comptroller for the amount. It shall further be the duty of said commissioners to issue their drafts upon the comptroller in favor of said contractor or contractors, on the first Monday in every month (if the contract be for money) for

the amount of the value of the work actually done, or material furnished, in estimating which, they shall be assisted by the written estimate of the superintendent; but in no case shall they allow the disbursement of money in favor of any contractor beyond what he is actually entitled to at the time.

Sec. 10. Should the contracts for construction require payment in money, the same shall be paid out of the treasury on drafts drawn by the comptroller in the manner provided for in the preceding section. The said commissioners shall keep a book, in which shall be kept an account with each contractor stating the amount of the contract and the several drafts drawn thereon, with the date and amount of each, which book shall accompany their report to the governor, to be made as hereinafter provided.

Sec. 11. No contract shall be let for building, which is not to be completed on or before a day to be fixed by the governor, and a failure to complete in time shall work a forfeiture of the bond of the contractor, unless by reason of the failure of such contractor, or other unavoidable circumstances, the said building would be left unfinished without extending a contract beyond that period.

Sec. 12. It shall be the duty of the commissioners to report to the governor of the state at the next regular meeting of the legislature the manner in which they have discharged their duties, the character and condition of the work done, the money expended, the various persons contracted with, the amounts and character of the contracts, the dates of the several bonds, together with the names of the obligors, the contracts which may have been forfeited in whole or in part, and all other information relative to the erection of said building.

Sec. 13. It shall be the duty of the commissioners to furnish the superintendent with a copy of the contract specified in the bond of each contractor, and they shall also give him such information from time to time as he may need or desire touching said contract.

Sec. 14. It shall be the duty of the superintendent to make his report to the governor at the next regular session of the Legislature of the manner in which the work has been executed, noting in said report what contractors, if any, have failed to perform their contracts, in whole or in part, and what injury or loss has resulted from such failure.

Sec. 15. Should the new capitol be constructed on a contract to build and receive payment therefor in the land set aside or to be set aside for that purpose, then the sum of six thousand dollars and all the land set aside, or to be set aside, under the provisions of the constitution, or so much thereof as may be necessary, is hereby appropriated to carry out the provisions of this act.

Sec. 16. Should a contract be made to construct said new capitol for the land hereby appropriated, titles to the same shall be made to the contractor by the commissioner of the general land office on the certificate of the building commissioners, to be countersigned and approved by the comptroller, as the work progresses, as may be provided for in the contract.

Sec. 17. The new state capitol shall be erected at such place within the capitol grounds as the governor and heads of departments shall select.

Sec. 18. The interior and exterior walls of the new capitol shall be of the most durable building rock accessible, which shall sustain a pressure at least equal to that used in constructing the Travis county court house.

Sec. 19. The contract for building shall provide for fire-proof vaults sufficiently large and numerous to contain and efficiently preserve all

the archives and papers of the different departments of the state government that may be located in said building, and which shall be surrounded and protected by masonry in the most approved manner; it shall also provide for proper pipes for supplying every department in the building with gas and water.

Sec. 20. Should the governor and heads of departments determine to construct a new state house on the grounds occupied by the present capitol, they may cause all the material in the present building to be disposed of by sale or otherwise, as will be most economical and beneficial to the state when the contract for building the new capitol is made, and they shall make necessary arrangements for storing in other public buildings the state property while the house is being built, and during its construction provide necessary offices for the present state officials occupying the capitol.

Sec. 21. The condition of the present state capitol building creates an imperative public necessity, which justifies the suspension of the rule requiring this bill to be read on three several days, and it is so suspended and that this act shall take effect and be in force from and after its passage, and it is so enacted.

Approved April 18, A. D. 1879.

Takes effect from and after its passage.

CHAPTER CVII.—An act to require the governor of the state to countersign certificates for land hereafter issued from the general land office in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever any doubt may arise as to the propriety of the issuance of any certificate or certificates for land by the commissioner of the general land office; or whenever a suit may arise in any court whatever having for its object to compel or restrain the issuance of such certificate or certificates by said commissioner, in all such cases before any such certificate or certificates shall issue, said commissioner shall notify the governor of the existence of such doubt or suit, and said commissioner shall act in the premises as advised by the governor.

Sec. 2. When the commissioner of the general land office shall have issued any certificate or certificates under the circumstances recited in section one of this act, such certificate or certificates shall be presented to the governor for his approval and signature, and when the governor has examined the same, and the circumstances under which they were issued, if he approves the issuance thereof he shall countersign the same, and if he disapproves the issuance thereof he may refuse to countersign the same, and when the governor has failed or refused to approve and countersign said certificate or certificates, no surveyor, either public or private, in this state shall make a survey for the same, nor shall the same be recognized as a valid land certificate for any purpose whatever.

Sec. 3. The interests of the State of Texas involved in this bill are such as to create an emergency that this bill should take effect from and after its passage, and the near approach of the close of the session is such an imperative public necessity as justifies the suspension of the constitutional rule requiring this bill to be read on three several days, and said rule is hereby suspended.

Approved April 19, A. D. 1879.

Takes effect from and after its passage.

CHAPTER CVIII.—An act to amend an act entitled “an act creating the office of public weigher and regulating the appointment and defining the duties and liabilities thereof.”

Section 1. Be it enacted by the Legislature of the State of Texas, That the governor is hereby authorized and required to appoint five competent persons as public weighers in the city of Galveston, and one or more (not to exceed three in any one city) competent persons as public weighers in the cities of Houston, Sherman, Dallas, Austin and Waco, and at such other incorporated cities or towns as in the judgment of the governor may be expedient, who shall hold his office two years and until his successor is appointed and qualified, subject to removal by the governor for misconduct or incompetency in office; provided, that in cities or towns receiving for sale or shipment less than twenty-five thousand bales of cotton or sacks of wool per annum, not more than two public weighers shall be appointed; provided further, that no person shall be appointed public weigher who is in anywise interested in the purchase or sale of any cotton, wool, sugar or hides required to be weighed, either as principal, agent, factor, commission merchant or employee.

Sec. 2. Every person so appointed before entering upon the duties of his office, shall take and subscribe an oath faithfully and impartially to administer the duties of his office; he shall also execute a bond with good and sufficient sureties in the sum of ten thousand dollars, payable to the governor of the State of Texas and his successors in office, conditioned for the faithful performance of his official duties, which said bond shall be certified to be sufficient by the county judge of the county wherein the city or town for which said appointment shall be made is situated; which said bond certified as aforesaid shall be filed and recorded in the office of the clerk of the county court of the county wherein said city or town shall be situated; provided, that in cities or towns receiving for sale or shipment less than twenty-five thousand bales of cotton or sacks of wool, the bond required of public weighers shall be two thousand dollars.

Sec. 3. When the person so appointed as aforesaid shall have qualified as aforesaid, he shall enter upon the duties of his office and shall weigh, without unnecessary delay, all cotton, wool, sugar and hides, required to be weighed, and shall mark upon the same plainly in figures, the weight thereof, and make a return of such weights in detailed form to the owner or owners thereof, or their agents or factors, after first certifying the correctness thereof. And he shall also keep copies of the weights of all articles weighed by him, and shall furnish a certified copy of the same at any time to the owner or his agent, or the purchaser thereof on demand.

Sec. 4. The public weigher shall have power to appoint one or more deputies, not to exceed three, who shall subscribe and take an oath similar to the one herein provided to be taken by the public weigher. The deputation and oath shall be recorded in the office of the county clerk before he shall enter upon the discharge of his duties. The public weigher shall be responsible for the acts of his deputies; and no person shall be appointed deputy who is in anywise interested in the purchase or sale of any cotton, wool, sugar or hides required to be weighed, either as principal, agent, factor, commission merchant or employee.

Sec. 5. He shall keep accurate and well adjusted scales and balances, and accurate weights, and shall have the same tested and certified to, as provided by law.

Sec. 6. He shall be allowed a fee of ten cents for each sack or bale of wool weighed; fifty cents for each hogshead of sugar; ten cents for each barrel weighed; ten cents for each bale of hides weighed; two cents for each loose hide weighed; ten cents for each bale of cotton weighed; twenty-five cents for each bale of cotton picked. The weigher shall not be allowed to pay for picking any cotton without written instructions from the factor so to do.

Sec. 7. It shall not be lawful for any person other than a regular appointed weigher or his deputy to weigh any cotton, wool, sugar or hides required to be weighed, sold or offered for sale in any city having a public weigher duly qualified. Any person or persons so offending shall be deemed guilty of a misdemeanor, and upon conviction before any court of competent jurisdiction, shall suffer a fine of five dollars for each and every bale of cotton, bale or sack of wool, hogshead or barrel of sugar, bale or loose hide so weighed.

Sec. 8. It shall not be lawful for any factor, commission merchant or any other person or persons to employ any one other than a regularly appointed and qualified public weigher, or his deputy, to weigh any cotton, wool sugar or hides required to be weighed, sold or offered for sale in any city having a public weigher duly qualified; and any person or persons violating this provision shall be liable at the suit of the public weigher, of such city, or either of such public weighers, to damages in any sum not less than five dollars for each bale of cotton, bale or sack of wool, hogshead or barrel of sugar or bale of hides so unlawfully weighed, to be recovered in any court of such county having jurisdiction thereof; provided, any owner shipping any produce named in this act to any town or city having a public weigher may by written instructions authorize his factor, commission merchant or agent to have such produce weighed by private weighers, if he prefers so to do, and in all such cases the prohibitions and penalties embraced in this section and in the preceding section shall not apply.

Sec. 9. Any public weigher who shall violate any of the provisions of this act or fail to comply with any of such provisions, shall be liable, at the suit of any person injured, upon his bond, for all damages that may have accrued to such person by such violation or failure.

Sec. 10. Nothing in this act shall be construed to prevent any person from weighing his cotton, wool, hides or sugar in person without being compelled to call upon a public weigher to weigh the same.

Approved April 19, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CIX.—An act to amend article 4257 of the Revised Civil Statutes, passed at the present session of the Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That article 4257 of the Revised Civil Statutes of the State of Texas, passed at the present session of the Legislature, be amended so that it shall hereafter read as follows, to wit:

“Article 4257. Railroad companies may charge and receive not exceeding the rate of fifty cents per hundred pounds per hundred miles for the transportation of freight over their roads, but the charges for transportation on each class or kind of freight shall be uniform, and no

unjust discrimination in the rates or charges for the transportation of any freight shall be made against any person or place on any railroad in this state; and it shall be prima facie evidence of an unjust discrimination for any railroad company to demand or receive from one person, firm or company a greater compensation than from another for the transportation in this state of any freight of the same kind or class, in equal or greater quantities, for the same or a less distance, which prima facie evidence may be rebutted by competent testimony on the part of such company, showing that the discrimination, if any, was not an unjust one, and the question, upon an issue as to whether any alleged discrimination is unjust or not, shall be a question of fact to be tried and determined as any other issue of fact in a case; provided, that when the distance from the place of shipment to the point of destination of any freight is fifty miles or less, a charge not exceeding thirty cents per hundred pounds may be made for the transportation thereof."

Approved April 19, A. D. 1879.

Takes effect ninety day after adjournment.

CHAPTER CX.—An act to amend section twenty-one of "an act regulating the duties of tax collectors in reference to the seizure and sale of property of delinquent tax-payers, and to define the further duties, powers, qualifications and liabilities of collectors of taxes, and to regulate their compensation," approved August 21, 1876.

Section 1. Be it enacted by the Legislature of the State of Texas, That section twenty-one of the above recited act be so amended as to read as follows:

"Section 21. Should the collector of taxes fail to make sale of any real estate for want of a purchaser, he shall give notice to the by-standers that he will, on the first Monday of the following month, offer said unsold lands for sale, and continue the sale from day to day for six successive days, after which, should there be any unsold lands, he shall report the fact to the comptroller, and shall have a credit for the amount assessed on said lands in a settlement of his accounts; and such lands as are not sold shall remain in the hands of the collector of taxes, and the owner may pay the amount due on said lands with interest at the rate of eight per centum per annum from date of sale with accrued costs; or any other person, on the failure of the owner to thus redeem said lands shall have the right to pay the amount due on said lands with interest and costs. The collector shall give said purchaser a deed for such lands, said deed shall be a good and sufficient title except as against the former owner, who shall have the right for two years from the date of purchaser's deed, to redeem said lands by paying the holder of said deed double the amount paid for the land and all subsequent taxes paid by the purchaser; and it is hereby made the duty of the collector of taxes to pay over to the comptroller every sixty days, all moneys received by him under the provisions of this section."

Sec. 2. The near approach of the close of the session makes it an imperative public necessity that the rule requiring the bill to be read on three several days be suspended, and it is so enacted.

Approved April 19, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CXI.—An act to amend article 1333 of the Revised Civil Statutes of the State of Texas, passed at the present session of the Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That article 1333 of the Revised Civil Statutes of the State of Texas, passed at the present session of the Legislature, be amended so that it shall read as follows, to wit:

Article 1333. The jury shall render a general or special verdict, as shall be directed by the court at the request of a party to the suit, and the verdict shall comprehend the whole issue or all the issues submitted to them; and upon a trial by the court, the judge shall, at the request of either of the parties, also state in writing the conclusions of fact found by him separately from the conclusions of law, which conclusions of fact and law shall be filed with the clerk and shall constitute a part of the record; and in all cases where a special verdict of the jury is rendered or the conclusions of fact found by the judge are separately stated, the court shall, unless the same be set aside and new trial granted, render judgment thereon, and it shall be sufficient for the party excepting to the conclusions of law or judgment of the court to cause it to be noted on the record in the judgment entry that he excepts thereto, and such party may thereupon take his appeal or writ of error without a statement of facts or further exceptions in the transcript, but the transcript shall in such case contain the special verdict or conclusions of fact and law aforesaid and the judgment rendered thereon.

Sec. 2. The fact that the passage of this act will facilitate the administration of justice, and the probability of an early adjournment of the Legislature rendering it doubtful whether this bill can be read on three several days, creates an imperative public necessity which justifies the suspension of the rule requiring it to be read on three several days, and said rule is therefore suspended.

Approved April 19, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CXII.—An act to amend section sixteen of "an act regulating elections," approved August 23, 1876.

Section 1. Be it enacted by the Legislature of the State of Texas, That section sixteen (16) of "An act regulating elections," approved August 23, 1876, be so amended as to hereafter read as follows:

Section 16. That each of the clerks shall write and number the name of each voter at the time of voting; and one of the judges, in every case, at the time of receiving the tickets or ballot, shall write upon it the voter's number corresponding with the number on the clerk's list; and no manager or other officer of the election shall unfold or examine the vote received, nor shall they or any one of them examine the endorsement on any ticket, by comparing it with the clerk's list of voters when the votes are counted out, nor shall they examine or permit to be examined by any other person, the tickets subsequent to their being received into the ballot box, except as hereinafter provided; and any presiding officer, judge or clerk of election, who shall violate any of the provisions of this section, shall be deemed guilty of a felony, and upon conviction thereof, shall be punished by imprisonment in the state penitentiary not less than

one nor more than two years. All ballots shall be written or printed on plain white paper without any picture, sign, vignette, device or stamp mark, except the writing or printing in black ink or black pencil, of the names of the candidates and the several offices to be filled, and except the name of the political party whose candidates are on the ticket; provided, such ballots may be written or printed on plain white foolscap, legal cap, or letter paper; provided, that all ballots containing the name of any candidate pasted over the name of any other candidate shall not be counted for such candidate whose name is so pasted, and any ticket, not in conformity with the above, shall not be counted in counting out the votes, and no ticket, not numbered as provided in this act, shall be counted in counting out the votes, nor shall either of two or more tickets folded together be counted; and any person who shall deposit any ballot except as provided in this section, or shall deposit two or more tickets folded together at any election in this state, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding one hundred dollars. That immediately after the counting of the votes by the managers of election, the presiding officer shall place all the tickets or ballots voted, into a wooden or metal box of sufficient size to contain them, and securely fasten the same with nails, screws or locks; and he shall, within five days after the election, deliver said box to the county clerk, whose duty it shall be to keep the same securely, and in the event of any contest growing out of the election within one year thereafter, he shall deliver said box to any competent officer having a writ or subpoena therefor from any tribunal or authority authorized to issue such process; and in the event that no contest grows out of said election, within one year after the election, then the said clerk shall destroy the said tickets or ballots by burning the same, nor shall he examine said ballots to ascertain how any person voted, or permit any person to do the same while in his keeping. The violation of any of the provisions of this section shall be deemed a misdemeanor, and any person convicted thereof, shall be punished by fine not less than fifty nor more than five hundred dollars, and may in addition thereto be imprisoned in the county jail not to exceed six months. Any presiding officer, judge or clerk of any election who shall divulge how any person shall have voted at any election, from an inspection of the tickets, unless in a judicial investigation, shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined in any sum not less than one hundred nor more than five hundred dollars.

Approved April 19, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CXIII.—An act to provide for the issuance and sale of bonds for the purpose of retiring the outstanding bonds of the state, and to supply deficiencies in the revenue, and to provide the mode and manner of the sale of said bonds.

Section 1. Be it enacted by the Legislature of the State of Texas, That the governor be, and he is hereby authorized and directed, to have engraved the bonds of the state to the amount of three millions five hundred and seventy-three thousand dollars.

Section 2. That said bonds shall be of three classes, to wit: First class, to be bonds of the denomination of one thousand dollars each,

payable in United States gold coin thirty years from the first day of July, A. D. 1879, to the bearer thereof, and shall bear interest at the rate of five per centum per annum, payable semi-annually on the first day of January and on the first day of July of each year, and shall have attached coupons for each installment of interest to become due thereon; the second class to be bonds of the denomination of one hundred dollars each, payable to bearer in gold coin of the United States thirty years from the first day of July, 1879, and shall bear interest at the rate of five per centum per annum, payable semi-annually on the first days of January and July of each year, and shall have coupons attached for each installment of interest to become due thereon; and the third class shall be bonds of the denomination of five dollars and of the denomination of ten dollars to be payable in United States gold coin twenty years from July 1, 1879, and shall bear annual interest at the rate of four per centum. The bonds of the third class shall be seven inches in length and three and one-half inches in width, including coupons for each installment of interest due thereon, and said coupons after maturity shall be receivable for all state taxes.

Sec. 3. That the bonds issued under this act shall be engraved on the best quality of bank note paper of convenient size and shape; said bonds shall be signed by the governor and treasurer of the state, which signatures may be engraved, and shall be entered in a book of record to be kept in the treasurer's office for the purpose, in which each bond shall be registered with its number and amount, together with the letter and series of each; and as soon as said bonds are signed and registered as herein provided for, they shall be turned over to the comptroller, who shall receipt to the treasurer therefor, and the comptroller shall at once cause to be registered in his office in a book to be kept for that purpose, the number and amount, letter and series of each bond received from the treasurer; and after said bonds or any part of them are so registered, they shall be sold under the direction of the governor, through the comptroller of the state or such other agents as he may deem necessary, but no such agent shall receive more than one-fourth of one per cent. on the amount sold by him for making any such sale; provided, that no bond sold under this act shall be sold for less than par and accrued interest.

Sec. 4. That the proceeds of three millions and three hundred and seventy-three thousand dollars of said bonds shall be applied exclusively to the payment and retirement of such bonds as are now due and to become due under the several acts authorizing the issuance of the same, as follows: Such bonds as are now due or to become due under the acts of November 9, 1866, August 5, 1870, August 13, 1870, May 21, 1871, December 2, 1871, March 4, 1874, April 24, 1874, May 2, 1874 and July 6, 1876; provided, that no state bonds belonging to any state fund that will not be due or redeemable by the state prior to the first day of March, 1881, shall be redeemed under this act; two hundred thousand dollars to be applied to payment of deficiency as provided in section forty-nine of article 3 of the constitution, and the governor shall be vested with the authority to carry into operation the provisions and intentions of this act in such manner and upon such plan as he may deem proper, wise, and for the best interests of the state.

Sec. 5. That the governor, comptroller and treasurer as a board shall be authorized and required to cancel and destroy all bonds redeemed under this act, and shall keep a duplicate list of the bonds and coupons

destroyed, stating the number, series and amount of each bond and coupon so destroyed, and sign the same, and one copy thereof shall be deposited in the office of the comptroller of public accounts, and one in that of the secretary of state, and such redemption and destruction shall be noted by the custodians of the registry made thereof at the time of their issuance.

Sec. 6. That in the event there are no matured bonds of the state outstanding and unpaid at any time during the operation of this act, then it shall become the duty of the governor to give thirty days' notice in some daily newspaper published in the city of New York, in the State of New York, and one published in the capital of this state, and three other places in the state, as the governor may select, that he will receive sealed proposals for the purchase, from the lowest bidder, of such amount of the unmatured bonds of the state as the funds arising from the sale of bonds issued under this act shall enable him to purchase; and the governor, acting in conjunction with the comptroller and treasurer, is authorized to accept such bids as they may deem advantageous to the state, and enter into a contract with any person or persons desiring or offering to sell said bonds to the state, binding such party to convey said bonds upon the state complying with the terms of the bid, and in no case shall any of the bonds, excepting those of the denomination of five and ten dollars issued under this act, be sold for the purpose of redeeming outstanding bonds not yet due or redeemable by the state at its option, until the governor shall have made a contract for the purchase of bonds as herein provided; provided, that nothing in this section shall prevent the governor from exchanging the bonds issued under this act for any outstanding bonds of the state after having made a contract as required in this section, upon such terms as he may deem advantageous to the state.

Sec. 7. The bonds to be issued under this act shall be in number and amounts as follows: For the sums of five dollars each there shall be engraved bonds to the amount of eight hundred thousand dollars; for the sums of ten dollars each there shall be engraved bonds to the amount of two hundred thousand dollars; for the sums of one hundred dollars each there shall be engraved bonds to the amount of one million dollars; for the sums of one thousand dollars each there shall be engraved bonds to the amount of one million five hundred and seventy three thousand dollars, and on the sale of said bonds it shall be optional with the purchaser thereof to select such denomination or denominations of the same as he may desire. The principal and interest of the coupon bonds of the denominations of one hundred and one thousand dollars shall be payable in the city of New York, through such agent or agents as the governor may select, or at the treasury of this state, at the option of the holder; but no agent shall receive more than one-fourth of one per cent. for paying said bonds or interest; but the registered bonds shall be payable at the office of the treasurer of the state.

Sec. 8. That the proceeds arising from the sale of bonds under the provisions of this act shall be applied first for the purpose of redeeming and paying the bonds known as the pension bonds, issued under and by the authority of the act approved August 13, A. D. 1870, and April 21, 1874, and the pension certificates and approved claims issued under said acts, upon which bonds would have been fully issued if identification and demand therefor had been made; provided, no interest shall be paid except where bonds have been demanded, issued and delivered, and no

bonds shall issue on such certificates and approved claims after the passage of this act; but the certificates and approved claims shall be paid at their face value without interest if demand is made therefor by the persons entitled thereto, by the first day of July, A. D. 1879.

Sec. 9. That the treasurer of the state is hereby required to give notice in a newspaper of general circulation published in the city of Austin, in the State of Texas, and in one published in the city of New York, in the state of New York, for at least thirty days prior to the day fixed for redemption and payment of the bonds retired by this act and named in section eight, that the same will be redeemed and retired at the treasury of the state, and the interest on all bonds not presented at the time specified in the notice shall on that day cease. The bonds so redeemed and retired shall be destroyed in the same manner as bonds redeemed with the sinking fund, as provided in section five of this act, and the governor shall have the power to pay off with bonds issued under this act any outstanding bonds of this state belonging to any special state fund that may be due or become payable at the option of the state before the first day of March, 1881, and all of said bonds exchanged for the bonds of any special fund, shall be registered and the coupons destroyed in the manner provided in this act.

Sec. 10. That should the legal holder of any of the bonds, for the payment of which this act provides, desire to take the bonds authorized to be issued by this act in payment or exchange for such bonds, he may be permitted to do so; provided, he will allow the current market value of said bonds herein issued, should the same be above par, and in no event shall the bonds be so paid out or exchanged at less than one hundred cents on the dollar. Parties holding said bonds shall pay the state the difference between the market value of the securities held by them, and the bonds herein provided for, and may pay the difference in money, so as to purchase one or more bonds in cases when the bonds redeemed are not for the same amount as the bonds issued in exchange therefor.

Sec. 11. Should it be the desire at any time of any holder of any bonds of the denominations of not less than one hundred dollars issued under this act to have said bonds registered by the treasurer of the state, he may do so by application to the treasurer, who shall, at the wish of the holder, detach from the body of the bond each and every coupon thereto attached, and the coupons so detached shall be immediately destroyed as provided in section five of this act. The treasurer shall endorse on the face of said bond the name of the holder thereof, and on its back he shall endorse the date of registration, together with its number of registration and the amount thereon due for interest on the day of registration. The treasurer shall also enter of record in a well bound book to be kept in his office for the purpose, the number and series of said bond so registered, together with the name of the holder thereof, the date of registration and the amount of interest due on said bond, and when the bond is registered and entered of record as required by this section the holder thereof may withdraw the same, giving to the treasurer a receipt therefor, and in case of a sale of said bond so registered, by the person in whose name it is entered of record, the transfer to the same shall be made by written bill of sale duly authenticated before some clerk of a court of record in the state where said sale is made, and the interest on said bond as it becomes due shall be paid only to the person legally owning the said bond, and in the payment of any

installment of interest a note of the payment of the same shall be endorsed on the back of said bond.

Sec. 12. Whenever any county shall have any of the proceeds arising from the sale of county school lands, the same may be invested by the county at par in any of the bonds herein provided for, and when any such county shall pay into the treasury of the state any money arising from the sale of such school lands, the state treasurer shall issue and deliver to such county a bond or bonds therefor, equal in amount to the sum or sums so paid into the treasury, and the treasurer shall endorse on said bond or bonds the name of the county purchasing and register the same in the name of the county in accordance with section eleven of this act, and after the endorsement is made the said bond or bonds shall not be transferable nor shall the principal or interest on said bond or bonds be paid except to said county as provided in this act.

Sec. 13. That the interest arising on bonds transferred to counties shall be paid out by the treasurer of the state upon presentation to him of a receipt or voucher properly signed by the county treasurer of the county holding any of such bonds, or any officer or person authorized by law to demand, receive and receipt for the same at any time after the said interest shall become due, and the treasurer shall keep a register of each bond issued to the county in a separate register kept for that purpose and its number and amount, and the name of the county.

Sec. 14. It shall be the duty of the treasurer of the state to open on the books of his office an account with each county in the state which shall purchase any of said bonds, entering thereon the date of purchase, amount of bonds and the number of each bond, also the interest paid to each county, and date of payment, together with any other entry he shall find necessary to a true exhibit of the dealings of the several counties touching said bonds, and he shall also make to each regular session of the Legislature a full statement of said accounts.

Sec. 15. The holder of any warrant on the treasurer shall be entitled to receive at his option payment at not less than current value, and in no case at less than one hundred cents on the dollar in bonds of the denomination of five and ten dollars issued under this act, and the amount of the warrants so satisfied with bonds, except the amounts of such warrants as are or may be drawn on the deficiency appropriation to the aggregate of two hundred thousand dollars, shall be reserved from the general revenue and used in retiring the outstanding bonded indebtedness of the state in accordance with this act; provided, that not more than fifty thousand dollars of said bonds per month shall be paid out on warrants under this section.

Sec. 16. The bonds created by and issued under this act shall be received by the comptroller and treasurer in lieu of money in payment of the principal arising from any sale of lands belonging to the public free schools, university or asylums, and said bonds when received shall be placed to the credit of said special funds.

Sec. 17. That the sum of five thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the treasury not otherwise appropriated to pay the expense of engraving and printing the bonds provided for by this act, for publishing notices, paying traveling expenses, and carrying out the provisions of this act.

Sec. 18. The fact that a portion of said bonds should be sold on or before the first day of July, 1879, creates an emergency that requires this act to take effect at once, and it is therefore declared that this act

shall take effect and be in force from and after its passage. The fact that there remain but a few days of the present session of the Legislature, rendering it improbable that this bill can be read on three several days, creates an imperative public necessity for the suspension of the constitutional rule requiring the bill to be so read on three several days, it is so enacted.

Approved April 21, A. D. 1879.

Takes effect from and after its passage.

CHAPTER CXIV.—An act to provide for appeals and writs of certiorari from judgments of justices' courts in counties in which the civil and criminal jurisdiction, or either, of the county courts has been transferred to the district courts.

Section 1. Be it enacted by the Legislature of the State of Texas, That in all counties in which the civil and criminal jurisdiction, or either, of county courts has been transferred to the district courts, appeals and writs of certiorari may be prosecuted to remove a case tried before a justice of the peace to the district court in the same manner and under the same circumstances under which appeals and writs of certiorari are allowed by general law to remove causes to the county court.

Sec. 2. The late hour of the session at which this act can receive consideration and its importance creates an emergency and an imperative public necessity that the rule requiring this act to be read on three several days should be suspended, and that this act take effect and be in force from and after its passage; and it is so enacted.

Approved April 21, A. D. 1879.

Takes effect from and after its passage.

CHAPTER CXV.—An act to provide for the record of contracts relating to land, in a manner that will distinguish community from separate property.

Section 1. Be it enacted by the Legislature of the State of Texas, That no deed, mortgage, contract, bond for title, or other written instrument relating to land, executed after this act goes into effect, shall be registered or recorded, without it is shown by recitals in such instruments: first, whether the grantor or land owner was married or single at the time he acquired his or her interest in the land; second, and if he or she was then married, the name of the husband or wife; third, and whether the husband or wife is dead, and which one; fourth, and whether the land is separate or community property of the grantor; fifth, and whether the grantee is single or married, and if married the name of the husband or wife, unless the want of such recitals shall be supplied in the manner hereinafter provided.

Sec. 2. That any one or more of the grantors in any such written instrument may make a supplemental deed containing said recitals, and when it is acknowledged by any one of the grantors and attached to the original deed, both may be recorded.

Sec. 3. That if no such supplement is made, any one having an in-

terest in the record of such an instrument, may supply the recitals required by section one of this act, by filing an application before the district or county judge, in any county in this state, to hear proof of the matters required to be recited; and the judge shall set a time when he will hear proof, either in term time or vacation, and witnesses, depositions *de bene esse*, or affidavits may be heard. The judge hearing the same shall determine which of the facts, necessary to be recited in the instrument described in the application, have been proved, and cause his judgment to be entered on the minutes of the court over which he presides. The applicant may make as many several applications as he thinks necessary, but shall in every instance be liable for the costs of the proceeding.

Sec. 4. That when any such supplement as is provided for in this act is made, acknowledged or proved as other instruments for record, and is attached to the original instrument to which it relates, which is also properly acknowledged or proved for record, or when a certified copy of a judgment of any district or county court, obtained as herein provided, is procured and attached to the original instrument to which it relates, and such original instrument is properly acknowledged or proved for record, it shall be lawful for the clerk of the county in which the land contracted about is situated, to record the original and supplement, or the original and certified copy of the judgment as one instrument.

Sec. 5. That this act is not intended to require such recitals to be made in reference to a private or municipal corporation, or persons acting in an official, a trust, or fiduciary capacity, who can have no community rights.

Sec. 6. That grantees and persons contracted with may supply the recital (if omitted) showing whether he or she is married or single, and if married the name of the husband or wife, by appending to the original instrument a statement in writing showing the facts, and signing and acknowledging or having the execution proved for record.

Sec. 7. That the recitals made or proved, as herein provided, shall be *prima facie* evidence of the facts recited.

Approved April 21, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CXVI.—An act to define in what civil cases depositions of witnesses may be taken.

Section 1. Be it enacted by the Legislature of the State of Texas, That depositions of witnesses may be taken in all civil suits heretofore or hereafter brought in this state, whether the witness resides within the county where the suit is brought or out of it; provided, the failure to secure the depositions of a male witness residing in the county in which the suit is pending shall not be regarded as want of diligence where diligence has been used to secure his personal attendance by the service of subpoena or attachment under the rules of law, unless by reason of age, infirmity or sickness or official duty, the witness will be unable to attend the court; or unless he is about to leave, or has left the state or county in which the suit is pending, and will not probably be present at the trial.

Sec. 2. That the great delay in the trial of civil cases on account of the absence of witnesses, the great and unnecessary expense incurred by reason of such attendance, and the great damage caused to the agricul-

tural and business population of the state by reason of the absence of a law authorizing the taking of depositions of all classes of witnesses where they reside in the county in which a suit is brought, creates an imperative public necessity that the rules should be suspended, and creates an emergency that this bill should take effect from and after its passage, and the rules are hereby suspended, and this act shall take effect from and after its passage.

Approved April 21, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CXVII.—An act to amend title forty-eight, chapter five of an act entitled “An act to adopt and establish the Revised Civil Statutes of the State of Texas,” passed February 21, 1879.

Section 1. Be it enacted by the Legislature of the State of Texas, That title forty-eight, chapter five of an act entitled “An act to adopt and establish the Revised Civil Statutes of the State of Texas,” passed February 21, 1879, be so amended as to add an additional article, as follows, to wit:

“Article 2802a. He shall at least once a month inspect the accounts in the offices of the state treasurer and the comptroller of public accounts, of all officers of this state, and of individuals charged with the collection or custody of funds belonging to the state, and shall proceed immediately to institute, or cause to be instituted, against any such officer or individual who is in default or arrears for the recovery of funds in his hands; and he shall also institute immediately criminal proceedings against all officers or persons who have violated the laws by misapplying or retaining in his hands funds belonging to the state.”

Sec. 2. The late hour of the session creates an imperative public necessity that the rules requiring this bill to be read on three several days be suspended, and it is so enacted.

Approved April 21, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CXVIII.—An act to amend article 1173 of the Revised Civil Statutes, passed by the Sixteenth Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That article 1173 of the Revised Civil Statutes, passed by the present Legislature, shall hereafter read as follows:

Article 1173. There shall be begun and holden at the county seat of each county a term of the county court thereof, for civil and probate business on the third Monday in January, March, May, July, September and November in each year, which shall continue in session until the business thereof is disposed of; provided, the term for civil and probate business shall not extend beyond the commencement of the term of criminal business.

Sec. 2. It being important that this act be passed at the present ses-

sion of the Legislature, as without it many of the county courts of this state cannot dispose of the business before them, and it being improbable that the same can be passed unless the rule requiring each bill to be read on three several days be suspended, therefore an imperative public necessity exists for the suspension of said rule, and the same is hereby suspended.

Approved April 22, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CXIX.—An act to amend title fifty-eight of the Revised Civil Statutes of the State of Texas, passed February 21, 1879.

Section 1. Be it enacted by the Legislature of the State of Texas, That title fifty-eight of the Revised Civil Statutes of this state, passed February 21, 1879, be amended by adding articles 3122a and 3122b, viz:

"Article 3122a. That all persons leasing or renting any residence or store-house or other building shall have a preference lien upon all the property of the tenant in said residence or store-house or other building for the payment of the rents due and that may become due, and such lien shall continue and be in force so long as the tenant shall occupy the rented premises and for one month thereafter, but this article shall not be considered as in any manner repealing or affecting any act exempting property from forced sale."

"Article 3122b. When any rent shall become due, or the tenant about to remove from such leased or rented buildings or remove his property therefrom, it shall be lawful for the person to whom the rent is payable, his agent, attorney or assignee, to apply to a justice of the peace of the precinct where the building is situated, for a distress warrant, which shall be issued on an affidavit and bond, and the same proceedings shall be had on the issuance, trial and return of such warrant as is now provided by law in this chapter, the object of this and the preceding article being to extend the operation of such law so as to include and protect liens on residences and store-houses and other buildings occupied or used by tenants, and conferring on the owners thereof the same rights and privileges as is now conferred by law on other landlords."

Sec. 2. Whereas, There is now no law in force fully conferring and protecting rent liens of owners of buildings used as residences or for carrying on business, and this session of the Legislature is near its adjournment, there is an emergency for the immediate passage of this act and an imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days which rule is suspended, and it is enacted that this act be in force from its passage.

Approved April 22, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CXX.—An act to amend chapter three of “An act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas,” by adding another article, to be called article 680a, prohibiting the use of any dumb animal, the property of another, without the consent of the owner, and prescribing a penalty therefor.

Section 1. Be it enacted by the Legislature of the State of Texas, That article 680a shall hereafter read as follows:

“Article 680a. That any person who shall hereafter take up and use any horse, mare, gelding, mule, ox, cow, or any other dumb animal, the property of another, and without the consent of the owner thereof, shall be fined in any sum not less than ten nor more than one hundred dollars; provided, that nothing herein contained shall prevent a prosecution for the theft of such animals whenever the offense of which said party shall be guilty shall come within the meaning of that crime; and provided, that this act shall not be construed as in any way interfering with the laws regulating estrays.

Approved April 22, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CXXI.—An act to amend articles 3955 and 3963 of the Revised Civil Statutes, passed at the present session of the Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That article 3955 of the Revised Civil Statutes, passed at the present session of the Legislature, shall hereafter read as follows:

“Article 3955. No patent shall be issued upon any claim, unless a map of the county in which the same is situated shall be on file in the general land office.”

Sec. 2. That article 3963 of the Revised Civil Statutes, passed at the present session of the Legislature, shall hereafter read as follows:

“Article 3963. The commissioner of the general land office is hereby prohibited from issuing a patent upon any survey that shall have been made by authority of a certificate issued prior to March 16, 1840, and has not been returned as genuine and legal by the commissioners appointed by the act of January 29, 1840, or by authority of a warrant issued for military services, unless the same shall have been presented to and approved by the secretary of war, the adjutant general or the commissioner of the court of claims as heretofore prescribed by law, unless said certificate or warrant shall have been issued by authority of a special act of the Legislature; and any patent issued contrary to the provisions of this article shall be null and void, unless the person claiming such patent shall produce to the commissioner of the general land office the judgment or decree of a district court of the Republic or State of Texas from which no appeal was taken within the time prescribed by law, that he is justly entitled to the amount of land under the constitution and laws.”

Sec. 3. That in view of the near approach of the close of the session of this Legislature, and the object to be attained by the passage of this

act creates an imperative necessity, and an emergency exists for the suspension of the constitutional rule, therefore this act shall take effect and be in force from and after its passage.

Approved April 22, A. D. 1879.

Takes effect from and after its passage.

CHAPTER CXXII.—An act to amend article 4767 of the Revised Civil Statutes of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That article 4767 of the Revised Civil Statutes be so amended as hereafter to read as follows:

Article 4767. The collector of taxes shall receive as compensation for his services five per cent. on the first twenty thousand dollars of taxes collected by him for the state, and two per cent. on all such taxes collected over that sum; for collecting the county tax, three per cent. on the first ten thousand dollars of such taxes so collected by him, and two per cent. on all such taxes collected over that sum; provided, that in counties owing subsidies to railroads, the collector shall receive only one per cent. for collecting such railroad tax; and in cases where property is levied on and sold for taxes, he shall receive the same compensation as is allowed by law to sheriffs or constables for making a levy and sale in similar cases, but in no case to include commissions on such sale.

Approved April 22, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CXXIII.—An act to suppress lawlessness and crime and to organize a force for that purpose.

Whereas, It is credibly reported that in several counties in the western and southwestern part of the state, the people are being depredated on in person and property by bands of criminal and lawless men too strong to be suppressed by the civil authorities unaided, and by bandits and robbers from Mexico; therefore, for the purpose of maintaining law and order and giving security to that section against foreign invasion and domestic disturbance and to aid the civil authorities,

Section 1. Be it enacted by the Legislature of the State of Texas, That the governor is hereby authorized to immediately organize a company of twenty-five men rank and file to wit: Twenty-one privates, two sergeants and two corporals, and in addition thereto there shall be one captain and one first lieutenant and in the aggregate said company shall consist of twenty-seven men, officers and non-commissioned officers and privates.

Sec. 2. That said company shall be mustered into the service of the State of Texas for the period of twelve calendar months, or longer or shorter, and may be disbanded when they are no longer needed, should the governor deem it necessary, in such manner as the adjutant general may direct. Each officer, non-commissioned and private thereof, shall furnish his own horse, saddle, bridle, rope, clothing, etc., for the entire term of service, and replace any or all of said articles, should it become necessary so to do.

Sec. 3. That the State of Texas shall furnish said company with arms, ammunition, camp and garrison equipage, and rations of subsistence for the men and forage for the horses, and with transportation necessary to move said supplies. The arms shall be issued and charged to the men, and in case any of said arms shall be lost through neglect or by disobedience of orders, the value thereof shall be charged upon the rolls as a stoppage against the party losing the same; but in no case shall arms lost in the discharge of duty be so charged.

Sec. 4. The members of said company shall be allowed the following pay, to wit: The captain, one hundred and twenty-five dollars per month; the first lieutenant, one hundred dollars per month; the sergeants, corporals and privates, thirty dollars each per month. The payments shall be made at such times and in such manner as the adjutant general of the state may prescribe.

Sec. 5. That said company shall be governed by the rules and regulations of the army of the United States, and the articles of war, so far as the same may be applicable, and by such orders, rules and regulations as may be prescribed from time to time by the governor and the adjutant general of this state.

Sec. 6. That the officers, non-commissioned officers and privates of said company shall be clothed with the powers of peace officers, and shall aid the civil authorities in the execution of the laws. They shall have authority to make arrests, and in such cases they shall be governed by the laws regulating and defining the powers and duties of sheriffs when in the discharge of similar duties. They shall, before entering upon the discharge of these duties, take an oath before some authority legally authorized to administer the same, that each of them will faithfully perform his duties in accordance with law. In order to arrest and bring to justice men who have banded together for the purpose of committing robbery or other felonies, and to prevent the execution of the laws the officers, non-commissioned officers, and privates of said company may accept the services of such citizens as shall volunteer to aid them, but while so engaged such citizens shall receive no pay from the state for their services.

Sec. 7. When said company or any member or members thereof shall arrest any person charged with the commission of a criminal offense or offenses, they shall convey such person or persons to the county or counties where he or they stand charged with the commission of an offense, and shall deliver him or them to the proper officer, taking his receipt therefor, and all necessary expenses thus incurred shall be paid by the state.

Sec. 8. That the officers and members of all military companies organized for the protection of the frontier, or for the suppression of lawlessness and crime in this state, shall receive pay for services in accordance with the rate established by section four of this act.

Sec. 9. That the fact of the existence of bands of lawless men in counties in this state, of their having prevented the execution of laws, and placed the good people in various counties in continual fear of the commission of outrages upon their persons and property, constitute a public necessity and emergency that this act take effect and be in force from and after its passage, and it is so enacted.

Approved April 22, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CXXIV.—An act to amend article 4759 of the Revised Civil Statutes of the State of Texas, adopted on the . . . day of February, 1879.

Section 1. Be it enacted by the Legislature of the State of Texas, That article 4759 of the Revised Civil Statutes, adopted February . . . , 1879, be so amended as to hereafter read as follows, to wit: Article 4759. Should the collector of taxes fail to make sale of any real estate for want of a purchaser, he shall bid the same off for the state for the taxes and penalties due and all costs accruing thereon and execute a deed to the state, and one deed shall include all tracts of land bid off to the state at such tax sale, and make due return thereof under such forms and directions as the comptroller may furnish and direct, and after sale and purchase by the state of any real estate it shall not be lawful for said collector to levy upon or advertise or sell the same for any remaining or accrued taxes thereon until the same shall have been redeemed by the owner or is sold by the state. Said collector shall, on final settlement of his accounts with the commissioners' court and the comptroller of public accounts, be entitled to a credit for the amount of taxes due the state and county respectively for which the land and lots were bid off to the state.

Sec. 2. There being no law in force to enable collectors of taxes to make such settlement with the state as is contemplated by this act, an imperative public necessity and emergency exist for the passage of this act, and it is therefore enacted that this act take effect and be in force from and after its passage.

Approved April 22, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CXXV.—An act to amend article 3193 of an act entitled "an act to adopt and establish the Revised Civil Statutes of the State of Texas."

Section 1. Be it enacted by the Legislature of the State of Texas, That article 3193 of an act entitled "An act to adopt and establish the Revised Civil Statutes of the State of Texas," shall hereafter read as follows:

"Article 3193. Every suit to be instituted to recover real estate as against any person having peaceable and adverse possession thereof, cultivating, using or enjoying the same and paying taxes thereon, if any, and claiming under a deed or deeds duly registered, shall be instituted within five years next after the cause of action shall have accrued and not afterwards; provided, that this article shall not apply to any one in possession of land who in the absence of this statute would deraign title through a forged deed; provided further, that no one claiming under a forged deed or deed executed under a forged power of attorney shall be allowed the benefits of this article."

Sec. 2. Since there is a public necessity and emergency that this act should at once go into effect, and the press of business in both houses renders it doubtful if time can be found for its consideration as ordinary legislation, therefore the law requiring this act to be read on three several days be suspended.

Approved April 22, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CXXVI.—An act to amend chapter two of title fifteen, and chapter one of title sixteen, in the Code of Criminal Procedure, of an act entitled “an act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas.”

Section 1. Be it enacted by the Legislature of the State of Texas, That articles 1054 and 1056, in chapter two, of title fifteen, and article 1112 in chapter one, of title sixteen of the Code of Criminal Procedure for the State of Texas, be and the same are hereby amended so as to read as follows:

Article 1054—Title 15—Chapter 2.

To the sheriff or constable shall be allowed the following fees, in all cases of felony where the defendant has been brought to trial, whether he be convicted or acquitted: First, for executing each warrant of arrest or *capias*, or for making arrest without warrant, the sum of one dollar; second, for summoning or attaching each witness, fifty cents; third, for summoning jury, two dollars; fourth, for executing death warrants, fifty dollars; fifth, for removing a prisoner, for each mile going and returning, including guards and all other expenses, when traveling by railroad, fifteen cents; when traveling otherwise than by railroad, twenty-five cents; for each mile he may be compelled to travel in executing criminal process, summoning or attaching witnesses, five cents; for traveling in the service of any process, not otherwise provided for, the sum of five cents for each mile, going and returning; if two or more persons are mentioned in the writ, he shall charge for the distance actually and necessarily traveled in the service of the same; sixth, for conveying a witness attached by him to any court out of his county, his actual necessary expenses by the nearest practicable public conveyances, the amount to be stated by him under oath and approved by the judge of the court from which the attachment issued, such account to become due when so approved; and the sheriff or constable's return shall in every instance show the time and place of service; seventh, for attending a prisoner on *habeas corpus* where such prisoner is charged with a felony, for each day, two dollars, together with mileage as above, when removing such prisoner out of the county under proper authority.

Article 1056—Chapter 2—Title 15.

The clerk or the district court shall receive for each felony case tried in such court by jury whether defendant be convicted or acquitted, the sum of ten dollars for each transcript on appeal, for each one hundred words, ten cents; for each felony case finally disposed of without trial, five dollars.

Article 1112—Chapter 1—Title 16.

The district or county attorney shall be entitled to ten per cent. on all fines, forfeitures or money collected for the state or county, upon judgments recovered by him, and the clerk of the court in which such judgments are rendered shall be entitled to five per cent. of the amount of said judgments to be paid out of the money when collected.

Sec. 2. All laws and parts of laws in conflict with the provisions of this act, be and the same are hereby repealed.

Approved April 22, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CXXVII.—An act in relation to chattel mortgages and other instruments intended to operate as mortgages of, or liens upon personal property and the record thereof.

Section 1. Be it enacted by the Legislature of the State of Texas, That every chattel mortgage, deed of trust or other instrument of writing intended to operate as a mortgage of, or lien upon, personal property, which shall not be accompanied by an immediate delivery, and be followed by an actual and continued change of possession of the property mortgaged or pledged by such instrument, shall be absolutely void as against the creditors of the mortgagor or person making the same, and as against subsequent purchasers and mortgagees or lienholders in good faith, unless such instrument or a true copy thereof shall be forthwith deposited with, and filed in, the office of the county clerk of the county where the property shall then be situated, or if the mortgagor or person making the same be a resident of this state, then of the county of which he shall at the time be a resident.

Sec. 2. Upon the receipt of any such instrument the clerk shall endorse on the back thereof the time of receiving it, and shall file the same in his office, to be kept there for the inspection of all persons interested; provided, that if a copy be presented to the clerk for filing, instead of the original instrument, he shall carefully compare such copy with the original, and the same shall not be so filed unless it is a true copy thereof; and a copy can be filed only when the original has been acknowledged.

Sec. 3. A copy of any such original instrument, or of any copy thereof, so filed as aforesaid, certified to by the clerk in whose office the same shall have been filed, shall be received in evidence of the fact that such instrument or copy was received and filed according to the endorsement of the clerk thereon, but of no other fact.

Sec. 4. The county clerk shall keep a book in which shall be entered a minute of all such instruments, which shall be ruled off into separate columns, with heads as follows: Time of reception, name of mortgagor, name of mortgagee or trustee and cestui que trust, date of the instrument, amount secured, when due, property mortgaged, and remarks; and the proper entry shall be made under each of such heads. Under the head of property mortgaged it will be sufficient to enter a general description of the property pledged and the particular place where located, and index shall be kept in the manner as required for other records.

Sec. 5. When the debt secured by any such instrument shall have been fully paid or satisfied, it shall be the duty of the mortgagee, his assignee or personal representatives to enter or cause to be entered satisfaction thereof; such entry of satisfaction shall be made in the book in which the instrument is entered, which may be done under the head of "remarks," and any instrument acknowledging satisfaction need not be recorded at length, but it shall be sufficient for the mortgagee or clerk to make an appropriate entry under the head of "remarks," showing that the same has been paid; and if there is a separate instrument acknowledging satisfaction it may be filed with the original instrument or copy thereof, and preserved therewith in the office of the county clerk.

Sec. 6. The person making any such instrument shall not remove the property pledged from the county nor otherwise sell or dispose of the same without the consent of the mortgagee; and in case of any violation

of the provision of this section the mortgagee shall be entitled to the possession of the property, and to have the same then sold for the payment of his debt, whether the same has become due or not.

Sec. 7. Chattel mortgages and other instruments intended to operate as mortgages of, or liens upon, personal property, shall not hereafter be recorded at length as heretofore required, and when deposited and filed in accordance with the provisions of this act shall have the force and effect heretofore given to a full registration thereof, and all persons shall be thereby charged with notice thereof and of the rights of the mortgagee, his assignee or representative thereunder, but nothing herein contained shall be so construed as to in any manner affect the rights of any person under any instrument recorded as required by law.

Sec. 8. The county clerk shall be entitled to the sum of twenty-five cents for filing and making the entry as aforesaid, when any such instrument is deposited in his office, and twenty-five cents for entering satisfaction thereof as herein required.

Sec. 9. All laws and parts of laws inconsistent with the provisions of this act are hereby repealed.

Sec. 10. Whereas the end of the session is near, and the season of the year is at hand when a great many persons execute mortgages upon growing crops and other personal property to procure supplies for their families and hands, therefore an emergency exists, and an imperative public necessity demands, that the constitutional rule which requires a bill to be read on three several days be suspended and this act take effect and be in force from and after its passage.

Approved April 22, A. D. 1879.

Takes effect from and after its passage.

CHAPTER CXXVIII.—An act to ascertain the amount due teachers for services rendered in the public schools from September 1, 1873, to August 31, 1876, and to provide for the payment of same.

Section 1. Be it enacted by the Legislature of the State of Texas, That the late board of school directors of each county shall constitute and are hereby authorized to act as an auditorial board to audit all claims of teachers for services rendered in public schools of their respective counties under the law and within the term specified in the caption of this act. In case of the refusal of any member of said board to act, the county judge is hereby authorized to fill any vacancy, or if all the members of said board fail or refuse to act, then to appoint a new board.

Sec. 2. Each member of said board shall be required to take an oath that he will faithfully perform the duties devolving upon him under the provisions of this act.

Sec. 3. The auditorial board shall meet at the county seats of their respective counties as soon as possible after the passage of this act and organize, when the board will give thirty days' notice of the time of the meeting of the board by publishing said notice for thirty days in some newspaper published in the county; and if there is no newspaper published in the county, then by posting the same in ten public places in the county. At the expiration of the time, the board will hold its sessions from day to day until they have passed upon such claims as may have been presented to them or as may be presented to them during their

session; provided, they shall not remain in session longer than six days.

Sec. 4. The board after the notice given, mentioned in section three of this act, shall proceed to pass upon all claims submitted to them under the requirements of this act, except such claims as have been heretofore audited under an act of the Fifteenth Legislature, entitled "An act to ascertain the amount due teachers for services rendered in the public schools, from September 1, 1873, to January 1, 1876, and to provide for the payment of same," and the board shall mark upon each claim submitted, in words and figures, the amount due thereon.

Sec. 5. Having ascertained the amounts on all claims submitted, they shall aggregate the claims by school districts, indicating in the aggregate the amounts found to be due by each school district respectively.

Sec. 6. In passing upon claims the board shall be governed strictly by the law, and official instructions of the superintendent of public instruction, in force at the time the contract was entered into.

Sec. 7. Having ascertained the amounts due from each district, the board shall furnish the commissioners' court with a correct list of the several amounts due each claimant, together with a description, as far as practicable, of the bounds of each district.

Sec. 8. It shall be the duty of the commissioners' court, upon the receipt of said list, to make the necessary levy on the property of each district separately that is in arrears, to raise sufficient revenue to satisfy said claims of teachers, including such balances on claims as were audited under the act of the Fifteenth Legislature referred to in section four of this act, and to satisfy which, sufficient levy has not already been made under said act; provided, that any one who may hold receipts for payment of a part or whole of his indebtedness, under a previous act, shall have credit therefor.

Sec. 9. It shall be the duty of the county treasurer to report to the commissioners' court the amount obtained from each district, as soon as full returns have been received from any given district.

Sec. 10. It shall be the duty of the commissioners' court, upon receipt of said report from the county treasurer, to order warrants to be issued on the county treasurer in favor of claimants for the full amount shown to be due, if there be sufficient funds on hand to pay all the claims; but if it appear that there is not sufficient funds to pay all the claims against the district in full, the said court shall pro rata the amounts and draw warrants accordingly, taking receipts for the same in full or partially, as the case may be.

Sec. 11. The county treasurer shall pay said warrants whenever presented, and hold the same for his voucher.

Sec. 12. In the event the records of the late board of school directors show that there are no claims outstanding and due teachers as herein specified, or that sufficient tax has already been levied under any law heretofore existing to pay off such claims, but not yet collected, it shall not be necessary to reorganize said board, but the late county superintendent of public instruction shall certify such facts in writing to the commissioners' court.

Sec. 13. The members of the auditorial board shall be allowed each four dollars per day for every day they shall be engaged in the discharge of their duty as such board, including the time in going to and returning from the county seat, and all other officers mentioned in this act;

and the collector of taxes shall receive such compensation as is now allowed by law for similar services.

Sec. 14. The amounts necessary to defray the expenses of the execution of this law shall be included in the aggregate assessment against said district.

Sec. 15. Whereas, an imperative public necessity exists for the passage of this law, in order that teachers may be paid the amounts due them, that this act be in force from and after its passage.

Sec. 16. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Approved April 22, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CXXIX.—An act establishing and prescribing the manner of ascertaining the boundaries of counties.

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever it shall appear to the satisfaction of the county court of any county in this state, or notice shall be given such court by the commissioner of the general land office, that the boundary or any part thereof of the county is not sufficiently definite and well defined, such court shall appoint an experienced and competent practical surveyor, whose duty it shall be to ascertain, by actual survey, the boundary or any part thereof, of said county, and to make and establish the lines and corners in the manner herein prescribed; and the said court in the order making the appointment shall specify the line or lines to be run, and the corners to be established and marked; and shall in all things conform to the law defining the boundaries of said county.

Sec. 2. The initial corners of the surveys herein provided for shall be designated by posts, mounds or stone monuments; the posts shall be of hewn cedar, cypress or bois d'arc at least eight inches in diameter, five feet long and set in the ground not less than three feet; the mounds shall be of stone when practicable, otherwise of earth and not less than two feet high; that at the end of each mile in said boundary a like post, mound or stone monument shall be established; the initial corners shall be described on the post or monument established there.

Sec. 3. In the field notes of the surveys of the lines ordered to be run, the surveyor shall give an accurate description of all prominent natural objects crossed by or adjacent to said lines, as well as of the corners and lines of surveys on or near said boundaries.

Sec. 4. That it shall be the duty of the court making such order to cause a copy thereof to be sent to the county courts of the counties interested in such boundary, stating the time and place, which time shall not be later than twenty days after the meeting of the county court of the county notified, for the commencement of the survey, and such notice shall be given at least ten days before the meeting of said county court; and it shall be the duty of the court so notified to appoint an experienced and competent practical surveyor to proceed at the time and place to assist in running and establishing such line.

Sec. 5. That the surveyors herein provided for, shall take the oath of office prescribed by law for county surveyors, and shall, before entering upon the duties herein prescribed, enter into bond with two or more securities, to be approved by the county court, in the sum of one thousand

dollars, payable to the county judge or his successors in office, conditioned for the faithful performance of his duties.

Sec. 6. When the line shall have been surveyed and marked as herein provided, it shall be the duty of the surveyor to make due return of the field notes and map to the county court; which field notes and map shall be recorded by the clerk, and a certified copy thereof returned to the general land office.

Sec. 7. That if either of the surveyors appointed to run and mark such line, shall fail to attend at the time and place appointed, the one in attendance shall proceed alone to perform the duties assigned him, and make his report to the county court of the county employing him which, being approved by such court, shall be recorded as evidence of the line in question, and the line so surveyed and marked shall thereafter be regarded as the true boundary line between the counties.

Sec. 8. That should the surveyors above provided for fail to agree as to the true boundary line between their respective counties, the facts of such disagreement, with a full statement of the questions at issue between them, shall be by them reported to the commissioner of the general land office, whose duty it shall be to examine the disputed matter at once, and from such data as the maps and archives of his office furnish, shall designate to such surveyors the line to be run, stating at what specific point they shall begin and to what specific point they shall run, adhering as nearly as possible to the line designated in the act creating such county line, which instruction shall be authority for said surveyors to run such line, and the line so run as above directed shall thereafter be the true dividing line between said counties.

Sec. 9. The expense of surveying and marking such line shall be divided between the counties interested in proportion to the frontage of each county upon the line, and paid for by each county as proportioned. The surveyors appointed as herein provided shall receive for their services the sum of three dollars per mile for each mile run. The expense of establishing the posts, mounds or stone monuments shall be paid by the counties interested, and they shall be erected under the supervision and direction of the surveyor.

Sec. 10. Before any county in this state, not already organized as a separate land district under existing law, shall be reorganized as such, the county court shall cause the boundary lines of the county to be surveyed and marked and the field notes and map of such survey duly recorded, returned to the general land office as provided in this act.

Sec. 11. That in view of the fact that there is no law in force under which boundary lines between counties may be ascertained and established, an imperative public necessity exists that requires the rules to be suspended for the immediate passage of this act, and it is hereby declared that this act take effect and be in force from and after its passage.

Approved April 22, A. D. 1879.

Takes effect from and after its passage.

CHAPTER CXXX—An act to amend section forty-six of "an act to encourage stockraising and for the protection of stockraisers," approved August 23, 1876.

Section 1. Be it enacted by the Legislature of the State of Texas, That section forty-six of the above entitled act shall be amended so as to hereafter read as follows:

"Section 46. That the counties of Anderson, Angelina, Austin, Bastrop, Bowie, Brazos, Burleson, Camp, Cass, Chambers, Cherokee, Collin, Colorado, Cooke, Dallas, Delta, Denton, Ellis, Fannin, Fayette, Fort Bend, Franklin, Freestone, Galveston, Grayson, Gregg, Grimes, Hardin, Harris, Harrison, Henderson, Hill, Hopkins, Houston, Hunt, Jasper, Jefferson, Johnson, Kaufman, Lamar, Lee, Leon, Liberty, Limestone, Madison, Marion, Montgomery, Morris, Nacogdoches, Newton, Panola, Parker, Polk, Rains, Red River, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, Shelby, Smith, Tarrant, Titus, Trinity, Tyler, Upshur, Van Zandt, Walker, Waller, Washington and Wood, are hereby exempted from the operations of this act, and the provisions of the same shall in nowise relate or apply to the aforesaid counties; provided, that in those counties bordering on the lines of the state, except those bordering on Red river, whether organized or unorganized, the governor shall appoint an inspector, whose duty it shall be to inspect, under the provisions of this act, all stock about to be driven or shipped out of the state, or in any other county exempt from the operations of this act, where there is a depot or place for the shipment of cattle; provided, that such cattle shall not be subjected to inspection on board of any railroad train, unless the same have been placed on board of such train for the purpose of evading the provisions of this act."

Approved April 22, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CXXXI.—An act to attach the unorganized county of Runnels to the county of Coleman for surveying purposes.

Section 1. Be it enacted by the Legislature of the State of Texas, That the unorganized county of Runnels be and the same is hereby attached to the county of Coleman for the purposes of surveying.

Sec. 2. The fact that the present Legislature is on the eve of adjournment, and said county for said purposes is not attached to any county, creates an imperative public necessity and emergency for the suspension of the constitutional rule, and the immediate passage of this act, and said rule is hereby suspended, and this act shall take effect from its passage.

Approved April 22, A. D. 1879.

Takes effect from and after its passage.

CHAPTER CXXXII.—An act to authorize the governor, attorney general and superintendent of the penitentiary to contract for conveying convicts from the places where sentenced to the penitentiary.

Whereas, The present financial condition of the state and the heavy burden of taxation resting upon the people, imperatively demands of this Legislature the inauguration of all reforms in the interest of economy which do not impair the efficacy of government; and

Whereas, The large amount now being paid for conveying convicts to the penitentiary suggests the great importance of devising some less expensive but equally safe means of transporting convicts; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas,

That the governor, attorney general and superintendent of the penitentiary be and they are hereby authorized and fully empowered to contract for a term not exceeding two years with some responsible person or firm, or association of persons, upon such terms and conditions as to them may seem best, to receive and safely transport all convicts from the places where confined to the penitentiary to which they may be sentenced; provided, such a contract can be made as will reduce the expenses of transporting convicts to the penitentiary below that now allowed by law, and at the same time not increase the expenses of the counties in keeping convicts; and it shall be the duty of the district clerk to notify the contractor by letter or otherwise of any person or persons convicted in his court as soon as the court adjourns, and such contractor shall pay all expenses of feeding and keeping such convicts after ten days from the date of their conviction.

Sec. 2. That the operation of all laws concerning the transportation of convicts be and the same are hereby declared to be suspended during the existence of any such contract as that provided for in the preceding section, and the governor shall, by proclamation, give notice for the making of such contract, and a copy of such proclamation shall be forwarded by the secretary of state to each sheriff in the state; and each sheriff shall, after issuance of said proclamation upon demand, deliver to the order of the party contracting with the state all convicts, together with a copy of the decree of the court before which said defendant or defendants were tried, convicted and sentenced, taking and filing among the papers in his office a receipt therefor. When a contract is made according to the terms of this act the contractors shall enter into bond in the sum of twenty thousand dollars, payable to the governor and his successors in office, with two or more securities, to be approved by said board, conditioned that said contractor will faithfully and fully carry out and comply with said contract; provided, that should the person making such contract fail or refuse to call on the sheriff of any county for any convict within one week after the adjournment of the court in which said convicts were tried, then the sheriff shall proceed at once to convey such convicts to the penitentiary as though no such contract had been entered into.

Sec. 3. In all cases where a convict is demanded by a contractor, or by any agent appointed by him, the authority of such person under the seal of state presented to the clerk of the court in which the conviction has been obtained shall be a sufficient authority for the said clerk to issue his warrant in the name of the state, requiring said contractor or his agent to take charge of said convict and deliver him inside the walls of the penitentiary, or to the lessees.

Sec. 4. The interests of the State of Texas involved in this bill are such as creates an emergency that this bill should take effect from and after its passage, and the near approach of the session's close is such an imperative necessity as justifies the suspension of the constitutional rule requiring this bill to be read on three several days, and the said rule is hereby suspended.

Sec. 5. The heavy expense of carrying convicts to the penitentiary under the existing law creates an imperative public necessity that this act take effect immediately, and it is therefore enacted that the same take effect from and after its passage.

Approved April 22, A. D. 1879.

Takes effect from and after its passage.

CHAPTER CXXXIII.—An act to provide for the assessment and collection of taxes on lands and other property situated in the unorganized counties, and for the enforcement of the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That all lands and other property situated in the unorganized counties of this state, owned by residents of such unorganized counties, shall be assessed by the assessor of the organized county to which such unorganized county is attached for judicial purposes, and the taxes collected by the collector of such organized county; and that the same remedies for the enforcement of the assessment and collection of such taxes shall apply as the law directs for the assessment and collection of the taxes on property situated in organized counties of this state.

Sec. 2. That the comptroller of the state is hereby authorized, empowered and required to assess and collect the state taxes on all lands in this state which are situated in unorganized counties thereof, and owned by non-residents thereof, in the manner hereinafter provided.

Sec. 3. The comptroller may at any time prior to the return of the assessment rolls to his office of the organized county to which such unorganized county or counties are attached for judicial purposes, receive the assessment of and collect the taxes on any lands situated in such unorganized county or counties which are owned by non-residents thereof.

Sec. 4. That as soon as the tax rolls of the organized county to which unorganized counties are attached for judicial purposes shall have been received by the comptroller, he shall, by comparing the lands rendered to the assessor of the organized county by the residents of such unorganized county or counties with those previously rendered to him by non-residents, make out a list of all unrendered lands situated in such unorganized county, and place such value upon the lands thus found to be unrendered as he, as a sworn officer, may deem just and fair; provided, nothing in this act shall be so construed as to prevent the comptroller from receiving the assessment and taxes due at any time prior to the completion of the unrendered list of such unorganized county.

Sec. 5. That after the completion of the unrendered list provided for in section 4 of this act, the owner or owners must pay according to the value and assessment made thereon by the comptroller.

Sec. 6. That assessments of lands rendered to the comptroller under the provisions of this act, shall be made by the party rendering the same under oath, as to their value; but if the comptroller think the valuation too low he shall object, and if the comptroller and the party rendering the land cannot agree, then the comptroller shall assess the same at such value as he, as a sworn officer, may think it is worth; and if the party rendering feels that the assessment is too high, he may appeal to the board of equalization, which, for such purposes, shall consist of the governor, attorney general and the secretary of state, and their decision shall be final.

Sec. 7. Three months after the completion of the unrendered list of each unorganized county respectively, the comptroller shall proceed to levy upon and advertise all lands in such counties upon which the taxes are due and unpaid,, giving notice of the amount due upon each separate tract of land, and giving such description of the land upon which taxes are due and unpaid, as he may be in possession of; such notice to be given

by publication in some weekly newspaper published in the state, for four consecutive weeks; said notice to state that on a certain day therein named the comptroller will proceed to sell the land therein described, or so much thereof as may be necessary to pay the state and county taxes due, and the cost of advertising the same.

Sec. 8. That the sale shall commence on the day named in said notice and may continue from day to day (Sundays and legal holidays excepted) until completed; such sale shall be had in front of the comptroller's office, in the city of Austin, between the hours of eight o'clock a. m. and four o'clock p. m. of each day.

Sec. 9. Should there be no purchaser of said lands, then the comptroller shall bid the same in to the state for the taxes due thereon and the costs of sale, and make a deed to the state to the same, including in one deed all lands bid in for the state or any one else.

Sec. 10. Should the lands bid in by the comptroller for the state not be redeemed by the owner thereof or his agent within two years, by the party redeeming the same paying double the amount for which the said land was sold, then the said lands thus sold and unredeemed shall become vacant and revert to and become a part of the public free school fund, to be sold and disposed of as other lands belonging to the public free school fund are to be sold and disposed of by law.

Sec. 11. The comptroller shall give to the purchaser of any lands the sale of which is provided for in this act a deed to the same, giving in such deed such description of the land as may be necessary to identify the same, or such description as he may be in possession of.

Sec. 12. The comptroller shall keep a list of the purchaser or purchasers of all such lands in his office, showing the name and postoffice of the purchaser or purchasers, together with the amount and description of the land sold, and the amount for which it was sold, and the date of sale.

Sec. 13. The deed given to the purchaser or purchasers by the comptroller under the provisions of this act shall vest a good and sufficient fee simple title in the purchaser or purchasers, subject to be impeached only for actual fraud; provided, the former owner or owners thereof do not redeem the same within two years from the date of deed, either by paying to the purchaser or purchasers double the amount for which said land was sold, or by making a tender of the same to him or his agent, or by depositing with the comptroller before the expiration of two years double the amount for which such land was sold, to be paid by the comptroller, when called upon, to the purchaser [or purchasers] thereof.

Sec. 14. All county taxes collected under the provisions of section 1 of this act shall be paid into the county treasury of the organized county to which such unorganized county is attached for judicial purposes.

Sec. 15. All county taxes due unorganized counties collected by the comptroller shall be kept by him to the credit of such unorganized county until the same shall have been organized, then he shall, upon the demand of the treasurer of the former unorganized county, pay the same over to said treasurer.

Sec. 16. All money received by the comptroller on deposit for the redemption of lands sold and bought by individuals, shall be by him deposited in the state treasury as a special deposit, subject to the order of the party to whom the conditional deed to such land was given. So also shall all county taxes collected by the comptroller under the provisions of this act, be deposited in the state treasury as a special fund

subject to the order of the comptroller, to be paid to the county treasurer as provided in section fifteen of this act.

Sec. 17. Whereas there is no law now in this state providing for the collection of taxes due from unorganized counties, and whereas the financial condition of the state and the just equalization of the burdens of taxation demand the immediate passage of such a law, therefore an imperative public necessity exists requiring the suspension of the constitutional rule requiring this bill to be read on three several days; therefore resolved, that said rule be suspended, and that this act take effect and be in force from and after its passage.

Approved April 22, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CXXXIV.—An act amending and supplementing articles 4662, 4663, 4664, 4665, 4666, 4667 and 4668, inclusive of chapter one of title ninety-four of the Revised Civil Statutes, adopted February 21, 1879.

Section 1. Be it enacted by the Legislature of the State of Texas, That article 4662 of the Revised Civil Statutes shall hereafter read as follows: "Article 4662. That there shall be levied and collected an annual direct ad valorem state tax of one-half of one per centum of the cash value thereof, estimated in lawful currency of the United States, on all real property situated, and all movable property owned in this state, on the first day of January of each and every year, except so much thereof as may be exempted by the constitution and laws of this state, which cash value shall be estimated in the lawful currency of the United States."

Sec. 2. That article 4663 of the above recited chapter, Civil Statutes, shall hereafter read as follows: "One-fourth of said direct ad valorem tax shall be for the benefit of public schools, and three-fourths for the support of the state government and the payment of the interest on the public debt, as may be directed by law; and the cost of assessing and collecting shall be paid pro rata out of each fund." That article 4664, above recited, shall hereafter read as follows: "That there shall be levied and collected from every male person, between the ages of twenty-one and sixty years, residents within this state, on the first day of January of each year (Indians not taxed, and persons insane, blind or those who by amputation or otherwise have lost the use of both hands or both feet, or one hand and one foot, excented,) an annual poll tax of two dollars each; one dollar for the benefit of public schools, and one dollar for general revenue purposes."

Sec. 3. That article 4665 of said above recited chapter and title shall hereafter read as follows: "That there shall be levied on and collected from every person, firm, company or association of persons, pursuing any of the following named occupations, an annual tax (except when herein otherwise provided) on every such occupation or separate establishment, as follows: For selling spirituous, vinous or other intoxicating liquors or medicated bitters in quantities less than a quart, two hundred and fifty dollars; for selling in quantities of one quart and less than five gallons, one hundred and fifty dollars; for selling in quantities of five gallons or more, two hundred dollars. From every person, firm or association

of persons selling beer exclusively, an annual tax of fifty dollars. From every merchant whose purchases amount to one hundred thousand dollars annually, two hundred dollars; from every merchant whose annual purchases amount to fifty thousand dollars, one hundred dollars; from every merchant whose annual purchases amount to twenty-five thousand dollars, fifty dollars; from every merchant whose annual purchases amount to fifteen thousand dollars, thirty dollars; from every merchant whose annual purchases amount to ten thousand dollars, twenty dollars; from every merchant whose annual purchases amount to five thousand dollars, ten dollars; from every merchant whose annual purchases amount to two thousand dollars or less, five dollars. From every commercial traveler, drummer, salesman or solicitor of trade by sample or otherwise, an annual occupation tax of two hundred dollars; provided, that such person shall not be required to pay the same if the person, firm or association of persons represented by him, or for whom he is soliciting trade, shall have paid a merchant's occupation tax, as provided in this section, of two hundred dollars, and any firm, person or association of persons desiring to be represented or solicit trade by such commercial traveler or travelers shall have the right to do so by paying to the comptroller of the state a state tax of two hundred dollars, payable annually in advance, and such person, firm, or association of persons paying such tax shall be exempt from the payment of any other state occupation tax as a merchant; and provided further, that the tax herein required to be paid by such commercial traveler, drummer, salesman or solicitor, shall be paid to the comptroller of public accounts, whose receipt, under seal, shall be evidence of the payment of such tax; and provided further, that no county, city or town shall levy or collect any occupation tax upon such commercial traveler, drummer, salesman or solicitor; provided, that nothing herein contained shall apply to any one soliciting subscriptions for religious, literary or historical books or maps. A merchant, in the meaning of this act, is any person, firm or association of persons engaged in buying and selling goods, wares and merchandise of any kind whatever. From every traveling person selling patent or other medicines, two hundred dollars, and no traveling person shall so sell until said tax is paid; from every fortune teller, two hundred dollars; from every clairvoyant or mesmerist who plies his or her vocation for money, five dollars for each and every county in which such vocation is carried on. From every person, firm or association of persons engaged in discounting and shaving paper, or engaged in business as money brokers or bankers, or in buying and selling bonds, state or county warrants, or other claims against the state, an annual tax of twenty dollars, in a city or town of not more than two thousand inhabitants; in a city or town of five thousand and not less than two thousand inhabitants, an annual tax of fifty dollars; in a city or town of ten thousand and not less than five thousand inhabitants, an annual tax of one hundred dollars; in a city or town of twenty thousand and not less than ten thousand inhabitants, an annual tax of one hundred and fifty dollars; in a city or town of forty thousand and not less than twenty thousand inhabitants, an annual tax of two hundred dollars. From every operator or owner of any daguerrean, photograph or other such like gallery by whatever name called, if in any incorporated city or town of less than five thousand inhabitants, ten dollars; if more than five thousand inhabitants, twenty dollars; and if elsewhere, five dollars; and from every person soliciting work for any daguerrean, photograph or such like gallery, where such gallery is not situated in the county in which he

solicits such work, ten dollars. From every auctioneer doing business in a city of ten thousand inhabitants or more, an annual tax of seventy-five dollars; from every auctioneer in a city or town of five thousand and not more than ten thousand inhabitants, fifty dollars; from every auctioneer in a city or town of two thousand inhabitants and not more than five thousand, thirty dollars; from auctioneers in all other towns or villages, twenty dollars; from every person, firm, or association of persons following the occupation of ship merchandising, if in a city or town of ten thousand inhabitants or more, twenty-five dollars; if in a city or town of less than ten thousand inhabitants, ten dollars; from every keeper of a toll bridge, an annual tax of ten dollars; from every person, firm or association of persons selling upon commission, an annual tax of ten dollars; from land agents there shall be collected an annual tax of ten dollars; the term "land agents" shall be construed to mean any person, firm or association of persons performing for compensation any of the following services: purchasing or selling real estate for others; purchasing or selling land certificates for others; examinations into land claims for others; but this term "land agent" shall not be so construed as to levy any tax upon attorneys in addition to the one hereinafter levied, when pursuing the occupation of an attorney strictly as such. For every person practicing law, ten dollars; provided, that attorneys-at-law shall only pay county occupation tax in the county of his or their residence; for every practicing physician, having a permanent home in this state, ten dollars; provided, that physicians shall only pay county occupation tax in the county of their residence; for every physician, surgeon, oculist or medical specialist of any kind, traveling from place to place in the practice of his profession, an annual tax of fifty dollars in each county where he may practice his profession; for every dentist in a city or town of ten thousands inhabitants or more, twelve dollars; from every dentist, ten dollars, but a dentist shall be liable for county occupation tax only in the county of his residence; from every person, firm or association of persons pursuing the occupation of posting up advertising bills or notices, tacking up advertising cards or notices, of tin, wood or other material, printing or lettering words or pictures on fences or other places as a means of advertising, the sum of twenty-five dollars per annum for the state, and in each county in which the occupation may be pursued, an annual tax of five dollars; from every person or firm keeping a shooting gallery at which a fee is paid or demanded, an annual tax of twenty dollars in each county. For every billiard, bagatelle, pigeon hole, devil among the tailors or Jenny Lind table, or anything of the kind used for profit, fifty dollars. For every horse race on which money or anything of value is bet, where the distance run does not exceed four hundred and forty yards, twenty-five dollars for each horse entered, to be paid to the tax collector before the race is run by the person entering the horse; for all other horse races, ten dollars for each and ever horse entered; for every person or persons who sell pools on horse races, five dollars for each and every day they may so sell said pools. For every nine or ten-pin alley, without regard to the number of pins, used for profit, one thousand dollars; any such alley used in connection with any drinking saloon or any drug store, or upon which any money or thing of value is paid, where intoxicating liquors are sold or given away, shall be regarded as used for profit. On all persons keeping or using for profit any hobby-horse or flying jenny, or device of that character with or without name, twenty dollars for each county wherein the same are kept or used. For every foot

peddler, ten dollars in each county where he peddles; for every peddler with one horse or one pair of oxen, the sum of twenty-five dollars in each county where he peddles; for every peddler with two horses or two pairs of oxen, forty dollars in each county in which he may pursue such occupation; provided, nothing herein contained shall be so construed as to include traveling vendors of tin or earthenware. For every theatre or dramatic representation for which pay for admission is demanded or received, five dollars for each day they may perform, or one hundred and twenty-five dollars per quarter; provided, that theatrical or dramatic representations given by performers for instructions only, or for charitable purposes, shall not be herein included. For every circus where equestrian or acrobatic feats and performances are exhibited, for which pay for admission is demanded or received, for each performance thereof fifty dollars, notwithstanding more than one such performance may take place daily; for every exhibition where acrobatic feats are performed for profit, not connected with a circus, ten dollars for each performance; for every slight-of-hand performance or exhibition of legerdemain, ten dollars. For every fight between men and bulls, or between dogs and bulls, or between bears and dogs, or between bulls and any other animals, five hundred dollars for each performance if exhibited for pay; for every cock fight, when exhibited for profit, or upon which any money or thing of value is bet or paid, five dollars. For every menagerie, wax-work or exhibition of any kind, where a separate fee for admission is demanded or received, ten dollars for every day on which fees for such admission are received; for every concert where a fee for admission is demanded or received, five dollars; provided, that entertainments when given by the citizens for charitable purposes, or for the support or aid of literary associations, are excepted. For every livery or feed stable, fifty cents for each stall, and fifty cents on each hack, buggy or other vehicle; for every hack, buggy or other vehicle let for hire, not connected with a livery stable, three dollars; for every wagon yard, not connected with a livery, feed or sale-stable, ten dollars. From every person, firm or association of persons dealing in stocks or bills of exchange, in a city or town exceeding ten thousand inhabitants, an annual tax of seventy-five dollars; in a city or town of five thousand inhabitants and less than ten thousand, an annual tax of fifty dollars; in a city or town of one thousand and less than five thousand inhabitants, an annual tax of twenty dollars; in any city or town of less than one thousand inhabitants, an annual tax of ten dollars. From every life insurance company doing business in this state, an annual tax of three hundred dollars; and in every county in which they may do business, ten dollars as county tax. From every fire and marine insurance company doing business in this state, an annual tax of two hundred dollars; and in every county in which they may do business, ten dollars as county tax. The state tax due from insurance companies shall be paid by such companies to the comptroller of public accounts, whose receipt under seal, shall be issued to the company or companies, certified copies of which shall be evidence of payment of state tax, and the county collector's receipt shall be authority to work in any county of this state for which such company has a receipt. From every person, firm or association of persons dealing in lightning rods, an annual tax of fifty dollars to the state on every wagon, and ten dollars each to the several counties in which such business may be done, on each and every wagon run or used in said lightning rod business by any person, firm or association of persons. From every person, firm or association of persons, following

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the occupation of cotton broker, cotton factor and commission merchant, in a city of more than five thousand inhabitants, an annual tax of fifty dollars; and in all other cases, an annual tax of twenty-five dollars; provided, that a merchant who pays an occupation tax, as under section three of this act, shall not be considered as a "cotton broker." From every pawnbroker, an annual tax of one hundred dollars. From every person, firm or association of persons canvassing for the sale of sewing machines, or peddling clocks, an annual tax of twenty dollars to the state, and ten dollars as county tax in every county where such business may be carried on; provided, that a merchant who pays an occupation tax as required by this section, shall not be required to pay this special tax for selling sewing machines or clocks; the state tax herein levied shall be paid to the comptroller of public accounts, whose receipt, under seal, shall be issued to such person, firm or association of persons selling sewing machines or clocks, certified copies of which shall be evidence of payment of state tax. From every person, firm or association of persons, doing an express business in this state, an annual tax of seven hundred and fifty dollars shall be levied and collected; this tax to be paid by such person, firm or association of persons doing an express business, to the comptroller of public accounts, whose receipt under seal shall be issued to the company or companies, certified copies of which shall be evidence of the payment of the state, county and municipal occupation tax; provided, that two hundred and fifty dollars of said annual tax shall be apportioned pro rata, according to the business done in each among the counties in which said company or companies may have offices and agents representing and doing business for the same by the comptroller of public accounts, and paid in accordance therewith to each county, or passed to its credit. From every person, firm or association of persons owning or running any palace, sleeping or dining room cars, not owned by the railway company, on any railroad in this state, there shall be collected an annual tax of two dollars per mile, for each and every mile of any and all railroads in this state over which such cars may run; the tax herein due shall be paid by said person, firm or association of persons to the comptroller of public accounts, whose receipt under seal shall be issued to the company, person or firm, certified copies of which shall be evidence of the payment of state tax; provided, that nothing herein contained shall authorize the levy of any county or municipal tax upon such person, firm or association of persons. From every person, firm or association of persons owning or running any railroad cars, steamboats or stage coaches in this state there shall be collected quarterly, on the first days of January, April, July and October of each year, a tax of one per centum upon their gross receipts from all passenger travel within this state, the same gross receipts to be returned under oath by said owner, agent or manager of said company to the comptroller, and said tax to be collected by the comptroller under such regulations as he may prescribe; provided, that nothing herein contained shall authorize the levy of any county or municipal tax upon such person, firm or association of persons. From every chartered telegraph company doing business within this state, there shall be collected one cent for every full-rate message, and one-half that for every message less than a full-rate message sent. This tax to be paid quarterly to the comptroller, on the sworn statement of the chief manager of said company or companies, who shall keep a record of such messages; and the receipt of the comptroller, under seal, shall be issued to said company or companies, certified copies of which shall be evidence

of the payment of the state tax; provided, railroad messages for running their trains and for company use, shall not be taxed; provided further, that nothing herein contained shall authorize the levy or collection of any county or municipal tax upon any such chartered companies for messages sent. On each gas company, manufacturing gas, fifty dollars; provided further, that the tax herein levied upon retail dealers in spirituous, vinous or other intoxicating liquors, or medicated bitters in quantities less than a quart, and upon the retail of beer, shall cease and be inoperative from and after the first day of October, 1879; provided further, that the payment of the tax hereafter imposed by law shall not authorize any person or firm to pursue any occupation, upon which a tax is imposed by this act, except on compliance with the provisions of this act, and such person or firm shall have credit on the amount of tax levied by this act, for the amount already paid by him or them, on so much of the term paid for as shall not have expired at the time this act shall take effect.

Sec. 4. That articles 4666 and 4668 of the above recited act shall hereafter read, as follows: "The commissioners' courts of the several counties of this state, shall have the power to levy taxes equal to one-half of the state tax herein levied, except on occupations in which there is a specific rate of taxation payable to the county as fixed in this act; provided, that any one wishing to pursue any of the vocations named in this act, upon which the annual state tax is more than ten dollars, for a less period than one year, may do so by paying pro rata of such occupation for the period he may desire; provided further, that no such occupation license shall issue for a less period than three months; and, provided further, that the receipt of the proper officer shall be prima facie evidence of the payment of such tax; and, provided further, that the provisions of this act shall not be deemed to affect the provisions of any law specially authorizing any commissioner's court to levy a different rate of tax; and, provided further, that the tax herein authorized to be levied by the county commissioner's court, shall not be construed to authorize said courts to levy a higher rate of tax than ten dollars each on life and on fire and marine insurance companies, and ten dollars each on lightning rod wagons, and twenty dollars on each person, firm or association of persons selling sewing machines or clocks in any of the counties; provided further, no person shall be allowed license for selling intoxicating or spirituous liquors, or for keeping any nine or ten pin alley, or billiard, bagatelle, pigeon-hole, Jenny Lind, devil among the tailors table, or any thing of the kind used for profit, for a period of less than twelve months; provided further, that the mayor and board of aldermen of any incorporated city or town, shall in no case levy a greater tax on any occupation than that authorized by this section to be levied by the county commissioner's court."

Sec. 5. That article 4667 shall read as follows: That the taxes herein levied by this act, are hereby made payable in the currency or coin of the United States; provided, that all county ad valorem tax may be paid in the jury and county scrip of their respective counties.

Sec. 6. That the collector of taxes shall keep a book of such size and character as may be necessary, in which shall be entered quarterly, at the following dates, to wit: January 1, April 1, July 1, and October 1, or within ten days thereafter, commencing on July 1, 1879, in which to require the returns to be made under the provisions of this act, the several amounts as shown by such returns for which and upon which any person, firm, or association of persons is or may be liable to a tax upon

occupation under section three of this act, and within fifteen days from the time of receiving and making up the several amounts and the sums due upon such amounts as occupation tax, the collector shall forward to the comptroller of public accounts a transcript or duplicate of the return and the amount as shown by his record; this transcript and the record from which it is taken, to show the amount of such quarterly returns and the tax due thereon, from every person, firm, or association of persons liable to such tax; and any collector failing to forward such transcript or duplicate, taken from the pages of such collector's record herein provided for or who shall forward a false or pretended transcript of such account, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than fifty nor more than five hundred dollars; provided, that nothing contained in this act is intended to affect the liability, which, in the absence of this statute, would be incurred under any penal enactment of this state.

Sec. 7. That the comptroller of public accounts shall be authorized and required to furnish tax collectors the necessary books and blanks required to be used by such collectors, under the provisions of this act.

Sec. 8. That the payment of the specific tax herein provided for, shall be required by the collector of taxes to be made before any person, firm, or association of persons shall be allowed to engage in any occupation requiring a license under the provisions of this act, this payment to be made for a period not less than three months; that all arrearages of taxes that may be due, by reason of any such business having been carried on, shall be a lien upon all the stock and fixtures owned or used in, or making a part of any business or vocation liable to such tax under the provisions of this act, and which lien shall authorize the collector to sell, after due notice, so much of such stock or other personal property of any person, firm, or association of persons owing taxes under the provisions of this act, as will satisfy such claim, together with the costs of such proceeding.

Sec. 9. The comptroller shall cause occupation tax receipts for each occupation to be printed, with his signature, for all occupations payable to the collectors, annual receipts for those that are paid annually, and quarterly receipts for all that can be paid quarterly; said receipts shall state the name of the occupation, and the amount of the tax, and have blanks for the year, month and name of licenses, and also have a blank space for signature of the collector; these receipts shall each have a stub attached stating briefly the substance of the attached receipt, and shall be bound in books; and he shall forward to each collector a proper number of said receipts, and charge him with the amount represented therein, and cause him to account therefor. The collector whenever collecting any occupation tax shall fill the blanks in the receipt and stub, by writing thereon the time for which he collects, and the name of the licensee, and shall sign the receipt and stub officially; and no person shall pursue any occupation unless he has a receipt, signed as herein provided by the comptroller and collector; and every person, firm or corporation keeping an office or having a local place of business, shall keep posted up in a conspicuous place his or their said licenses.

Sec. 10. That all laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 11. The late hour of the session creates an imperative public

necessity for the suspension of the rule requiring this bill to be read on three several days; and it is so ordered.

Approved April 22, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CXXXV.—An act requiring the proceeds arising from the leasing or renting of county school lands, and from sales of timber thereon, to be applied exclusively to educational purposes.

Section 1. Be it enacted by the Legislature of the State of Texas, That the proceeds of any leasing or renting of lands heretofore granted by the State of Texas to the several counties for educational purposes, and the proceeds arising from any sale of timber on said lands or any part thereof, shall be applied exclusively to the purposes of public education in said counties respectively, and shall be invested in like manner as the constitution and laws require of proceeds of sales of said lands, and it shall be unlawful for the commissioners' court of any county to apply said proceeds or any part thereof to any other purpose, or to loan the same, or to invest the same, except as above required.

Sec. 2. Whereas, in many counties of this state county schools lands have been leased or rented and timber thereon sold and the proceeds applied to other than school purposes, there is an emergency and imperative public necessity for the immediate passage and taking effect of this act; and it is therefore enacted that the rule requiring bills to be read on three several days be suspended, and that this act be in force from its passage.

Approved April 23, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CXXXVI.—An act to attach the unorganized counties of Archer, Baylor, Hardeman, Knox, Wilbarger and Wichita to the organized county of Clay for judicial and other purposes.

Whereas, The unorganized counties of this state mentioned in the caption of this bill are not by any statute now in force attached to any organized county for judicial and other purposes; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the unorganized counties of Archer, Baylor, Hardeman, Knox, Wilbarger and Wichita be and the same are hereby attached to the county of Clay for judicial and other purposes.

Sec. 2. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 3. The fact that the present session of the Legislature is on the eve of adjournment creates an imperative public necessity and emergency for the immediate passage of this act; therefore the constitutional rule requiring this bill to be read on three several days is hereby suspended, and this act shall take effect from and after its passage.

Approved April 23, A. D. 1879.

Takes effect from and after its passage.

CHAPTER CXXXVII.—An act prescribing the number of hours per day in which employees in the departments of the state government shall labor.

Section 1. Be it enacted by the Legislature of the State of Texas, That the employees in the several departments of the state government shall be and they are hereby required to labor nine hours each secular day, under such regulations as shall be prescribed by the heads of departments; and it is hereby made the duty of the chief officers of the several departments to establish rules and regulations in conformity to the requirements of this act, to go into operation as soon as this act shall take effect.

Approved April 23, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CXXXVIII.—An act to change and define the times of holding the terms of the district court in the fifth judicial district of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That hereafter the terms of the district courts of the fifth judicial district of the State of Texas shall be holden at the times hereinafter specified, to wit: In the county of Cass, on the first Mondays in February and September, and may continue in session three weeks; in the county of Bowie, on the third Mondays after the first Mondays in February and September, and may continue in session two weeks; in the county of Morris, on the fifth Mondays after the first Mondays in February and September, and may continue in session one week; in the county of Titus, on the sixth Mondays after the first Mondays in February and September, and may continue in session two weeks; in the county of Franklin, on the eighth Mondays after the first Mondays in February and September, and may continue in session two weeks; in the county of Camp, on the tenth Mondays after the first Mondays in February and September, and may continue in session two weeks; in the county of Marion, on the twelfth Mondays after the first Mondays in February and September, and may continue in session four weeks.

Sec. 2. That all writs and process returnable to said courts shall be returnable to the terms of said courts as herein defined, and all such writs and process as have been issued, executed and returned shall be as valid as if no change had been made in said courts by the passage of this act.

Sec. 3. That no inconvenience may result to the people of the fifth judicial district by the change in the time of holding the courts therein, a public necessity and emergency exists that this act take effect and be in force from and after its passage, and it is therefore so enacted.

Sec. 4. The near approach of the end of the session of the Legislature^{*} creates an imperative public necessity and emergency for the suspension of the constitutional rule in order to place this bill on its immediate passage, and it is so suspended.

Approved April 23, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CXXXIX.—An act to provide for the publication of notices of judicial sales in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever real property shall be levied on by virtue of any execution, or shall be the subject of any order of sale or venditioni exponas, if the defendant shall within five days after the levy of the execution, or the issuance of the order of sale or venditioni exponas, file with the officer making the levy or having the process a written request that notice of the sale be published in a newspaper, the same shall be so published, if there be a newspaper published in the county that will publish the same for the compensation allowed herein. When said request is filed the officer shall, under the provisions of this act, publish notice of the sale in a newspaper published in the county for three consecutive weeks. Said notice shall contain a statement of the authority by virtue of which the sale is to be made, the time of levy and the time and place of sale; it shall also contain a brief description of the property to be sold, and shall give the number of acres, original survey, locality in the county, and the name by which the land is most generally known, but it shall not be necessary for it to contain the field notes. Publishers of newspapers shall receive for publishing said sales seventy-five cents per square for the first insertion and fifty cents per square for subsequent insertions, to be taxed and paid as other costs; in such publications ten lines shall constitute a square, and the body of no such advertisement shall be printed in larger type than brevier.

Sec. 2. The near approach of the close of this session of the Legislature renders it impracticable for this bill to be read on three several days; the rule requiring such reading is therefore hereby suspended.

Approved April 23, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CXL.—An act making the county judge of Tom Green county returning officer for the seventy-fifth representative district.

Section 1. Be it enacted by the Legislature of the State of Texas, That the county judge of Tom Green county shall be the returning officer for the seventy-fifth representative district of Texas, composed of the counties of El Paso, Presidio, Pecos, Tom Green and Crockett, and due returns of the votes cast for representative in said district shall be made to said county judge, who shall count the same and declare and certify the result as prescribed by law.

Sec. 2. That all laws and parts of laws in conflict with this act are hereby repealed.

Sec. 3. The fact that the present session of the Legislature is on the eve of adjournment, creates an imperative public necessity and emergency for the suspension of the constitutional rule requiring this bill to be read on three several days and the immediate passage of this act, and it is so enacted.

Approved April 23, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CXLI.—An act to protect lands lying on county boundaries from double assessments.

Section 1. Be it enacted by the Legislature of the State of Texas, That lands lying on county boundaries, which have not been accurately and legally surveyed, determined or fixed, shall not be assessed or taxed in more than one county.

Sec. 2. Any lands which may have been assessed in any county according to the abstract of land titles, and the taxes paid thereon according to law, shall not be afterwards subject to the payment of taxes for the same period in a different county, although a subsequent survey and determination of the county boundaries may show said lands to be in a different county from that in which they were originally assessed; and any sales of such lands for alleged delinquency shall be illegal and void.

Sec. 3. Owing to the late period of the session, and the fact that assessments are being made, creates an imperative public necessity for dispensing with the rule that requires this bill to be read on three several days, and an emergency that requires this act to be in force from and after its passage, and it is so enacted.

Approved April 23, A. D. 1879.

Takes effect from and after its passage.

CHAPTER CXLII.—An act for the better protection of the harbors and ports of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That from and after the passage of this act, it shall be unlawful to throw into the sea any part of the ballast of any vessel within six miles of any bar or harbor in this state.

Sec. 2. That if any ballast shall be thrown into the sea within the limits forbidden by this act from any vessel, the master or other officer in charge thereof at the time shall be guilty of a misdemeanor; and upon conviction thereof shall be fined not less than one hundred dollars, nor more than two hundred dollars.

Sec. 3. The near approach of the end of the session, and the want of a proper law upon this subject, creates an imperative public necessity and an emergency that the rule be suspended and that this [act] be passed at once, and take effect from and after its passage; and it is so enacted.

Approved April 23, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CXLIII.—An act to make an appropriation for the support of the state government for the years beginning March 1, 1879, and ending February 28, 1881.

Section 1. Be it enacted by the Legislature of the State of Texas, That the following sums, or so much thereof as may be necessary, be and the same are hereby appropriated out of any money in the treasury,

not otherwise appropriated, for the support of the state government for the years beginning March 1, 1879, and ending February 28, 1881, viz:

	YEARS ENDING	
	Feb. 29, 1880	Feb. 28, 1881
Executive Office.		
For salary of governor.....	\$4,000	\$4,000
" private secretary	1,500	1,500
" clerk	900	900
telegraphing	300	300
books and stationery.....	300	300
postage	200	200
porter hire, executive, state and educational de- partments	360	360
labor to keep executive mansion grounds in order, and other contingent expenses.....	500	500
wood, lights, etc., executive office.....	200	200
gas for mansion.....	200	200
the payment of rewards and for paying attorneys for prosecuting offenders against the laws of this state, and for representing the state in civil cases, to be under the control, and paid upon warrants issued on certificates of the governor	15,000	15,000
repairing the executive mansion, and re-roofing and painting it, and repairing out-buildings, and rebuilding fences and painting same, and furnishing mansion.....	2,000	
State Department.		
For salary of secretary of state.....	\$2,000	\$2,000
" chief clerk.....	1,500	1,500
" two clerks.....	2,000	2,000
" extra clerks to copy laws for printing.	250	
postage	1,200	1,200
public printing.....	22,000	20,000
freight and express.....	250	250
printing material and paper for printing office at Deaf and Dumb Asylum.....	2,000	150
contingent expenses.....	50	50
books and stationery.....	500	500
lights	50	50
wood	100	100
fixing up file room.....	150	
publishing Revised Statutes, Penal Code and Code of Criminal Procedure.....	22,000	
Treasury Department.		
For salary of treasurer.....	\$2,500	\$2,500
" chief clerk.....	1,500	1,500
" book-keeper	1,500	1,500
" one additional book-keeper to be paid, one-half out of the university fund and one-half out of the proceeds of the sale of common school land.....	1,350	1,350
salary of night watch	900	900

Treasury Department—continued.	YEARS ENDING	
	Feb. 29, 1880	Feb. 28, 1881
For porter and messenger hire treasurer's and comp- troller's departments.....	\$300	\$300
books and stationery.....	250	250
wood and lights.....	150	150
postage	200	200
contingent fund.....	50	50
purchase of safe and construction of vault.....	4,000	
Comptroller's Office.		
For salary of comptroller	\$2,500	\$2,500
“ chief clerk.....	1,500	1,500
“ book-keeper	1,500	1,500
“ assistant book-keeper	1,000	1,000
“ chief tax clerk.....	1,500	1,500
“ warrant clerk.....	1,500	1,500
“ assistant warrant clerk.....	1,000	1,000
“ delinquent tax clerk.....	1,350	1,350
“ assistant tax clerk.....	1,000	1,000
“ additional clerks, one-half of whom may be females, at a salary not higher than \$75 per month, each.....	12,000	12,000
telegraphing	50	50
wood	250	250
postage for correspondence and assessment rolls, contingent expenses	2,000	2,000
books, stationery and binding rolls.....	50	50
	1,500	1,500
General Land Office.		
For salary of commissioner.....	2,500	2,500
“ chief clerk	2,000	2,000
“ Spanish clerk.....	1,500	1,500
“ receiving clerk.....	1,500	1,500
“ examining clerk.....	1,350	1,350
“ calculator	1,000	1,000
“ first assistant clerk.....	1,300	1,300
“ two filing clerks.....	1,800	1,800
“ two corresponding clerks	2,000	2,000
“ principal patent clerk.....	1,000	1,000
“ fifteen assistant clerks (all of whom may be females, in the discretion of the commissioner).....	13,500	13,500
“ chief draftsman.....	1,500	1,500
“ four compiling draftsmen.....	4,800	4,800
“ assistant draftsmen.....	9,000	9,000
“ night watchman	500	500
“ porter	300	300
stationery, books and furniture.....	3,000	3,000
postage	750	750
wood	250	250
contingent expenses	100	100

Lunatic Asylum.		YEARS ENDING	
		Feb. 29, 1880	Feb. 28, 1881
For salary of	superintendent	\$1,800	\$1,800
"	assistant superintendent and apothecary,	1,200	1,200
"	steward	700	700
"	matron	400	400
"	ten male wards, at \$20 per month.....	2,400	2,400
"	eight female wards, at \$20 per month..	1,920	1,920
"	four seamstresses, at \$20 per month...	960	960
"	three laundresses, at \$20 per month...	720	720
"	one night watchman.....	300	300
"	one gardener	180	180
"	two laborers.....	300	300
"	one scavenger.....	200	200
"	one chief cook.....	800	300
"	two assistant cooks	480	480
"	one carpenter.....	360	360
medical	stores	500	500
purchase	of clothing, dry goods and bedding....	4,000	4,000
purchase	of groceries, provisions and wood.....	20,000	20,000
repairs	of building.....	400	400
miscellaneous	purposes	500	500
transportation	of indigent lunatics from the asy-		
	lum to their homes.....	1,500	1,500
laundry	supplies	300	300

Blind Asylum.

For salary of	superintendent.....	\$1,800	\$1,800
"	all teachers.....	2,000	2,000
salary of	music teachers	600	600
"	matron	400	400
groceries	and miscellaneous.....	12,200	12,200
salary of	oculist.....	600	600
"	cook and assistant.....	360	360
"	seamstress and nurse.....	330	330
"	washer, ironer and assistants.....	420	420
building	and repairs.....	7,500	

Deaf and Dumb Asylum.

For salary of	superintendent.....	1,800	1,800
"	principal teacher.....	1,000	1,000
"	second "	600	600
"	third "	360	360
"	fourth "	360	360
"	instructor in printing and expert em-		
	ployed by printing board.....	1,000	1,000
"	matron	360	360
"	assistant matron and seamstress.....	300	300
"	gardener	180	180
"	driver and laborer.....	150	150
washing	and ironing.....	300	300
two cooks	.....	420	420
groceries,	provisions and miscellaneous.....	7,000	7,000
finishing	and furnishing new building.....	2,500	

	YEARS ENDING	
	Feb. 29, 1880	Feb. 28, 1881
Penitentiary.		
For conveying prisoners.....	\$40,000	\$40,000
Quarantine.		
For pay of health officer, and for expenses incurred under quarantine laws in the state.....	\$20,000	\$20,000
building quarantine station houses at such points as the health officer may deem suitable.....	5,000	
Pensions.		
For payment of old pensions.....	\$1,800	\$1,800
pensions under the present law.....	50,000	
Attorney General's Office.		
For salary of attorney general.....	\$2,000	\$2,000
“ and traveling expenses of assistant attorney general.....	3,000	3,000
“ chief clerk.....	1,500	1,500
“ assistant clerk.....	1,000	1,000
stationery.....	150	150
postage.....	188	188
wood and lights.....	100	100
fees in felony cases.....	1,500	1,500
contingent expenses.....	100	100
purchasing law books for library.....	125	125
Adjutant General's Office.		
For salary of adjutant general.....	\$2,000	2,000
“ chief clerk for two months.....	250	
“ clerk, \$50 per month.....	600	600
stationery, postage and telegraph.....	200	200
handling and transportation of arms, munitions and ammunition.....	500	500
building house for storage of arms.....	1,000	
rent of room for storage of arms and ammunition until completion of said building.....	200	
contingent expenses, repairs, arms and ammunition.....	150	150
protection of the frontier and the suppression of lawlessness and crime, twenty thousand dollars of which shall be appropriated each year to the organization of a force to operate in southwest Texas, but to be subject to the order of the governor, in an emergency to be used elsewhere.....	100,000	100,000
Judiciary.		
For salary of three judges of supreme court.....	\$10,650	\$10,650
pay of sheriffs or bailiffs for attendance.....	300	300
books and stationery, supreme court.....	600	600
postage and contingent expenses.....	500	500
purchase of law books for supreme court library..	1,000	1,000
porter hire.....	270	270
the payment of fees and cost of sheriffs, clerks, district and county attorneys in felony cases..	91,500	91,500

	YEARS ENDING	
	Feb. 29, 1890	Feb. 28, 1891
Judiciary—continued.		
For publishing supreme court reports.....	\$5,000	\$5,000
fees of committing magistrates, sheriffs and constables, in county and justices' courts.....	5,000	5,000
publishing court of appeals reports.....	5,000	5,000
librarian, supreme court at Tyler.....	300	300
“ “ “ Galveston, to be paid		
to Galveston county	300	300
fuel and lights for supreme court.....	500	500
“ “ “ court of appeals.....	500	500
postage and contingent expenses, court of appeals	500	500
salary of three judges, court of appeals.....	10,650	10,650
pay of sheriffs or bailiffs, attendance on court of appeals	300	300
pay of clerk's fees, criminal costs in court of appeals	2,000	2,000
porter hire, court of appeals.....	270	270
books, stationery and furniture, court of appeals.	900	900
For pay of thirty-two district judges.....	80,000	80,000
salary of judge of criminal district court, Galveston and Houston.....	2,500	2,500
salary of district attorneys.....	8,500	8,500
salary of district attorney criminal district courts of Harris and Galveston counties.....	500	500
salary of special district judges.....	4,000	4,000
Public Buildings and Grounds.		
For labor upon public grounds, and taking care of public buildings, shrubbery within the enclosure, and for renovating water-closet at the north gate of the Capitol yard, all to be under the supervision of the commissioner of insurance, statistics and history, and warrants to issue upon his certificate for labor performed..	600	600
removal of the fence off of the street at the east line of the state cemetery and repairing fence.	50	
filling graves in state cemetery.....	50	
Department of Insurance, Statistics and History.		
For salary of commissioner.....	2,000	2,000
salary of one clerk, to be state librarian.....	1,000	1,000
porter hire for department of insurance, statistics and history, adjutant general and attorney general	300	300
stationary, postage, printing, fuel, lights, purchasing, binding, and express charges on books for public library, and for office furniture, and expenses for procuring historical archives from this and foreign countries.....	500	500
subscription for newspapers for public library...	100	100
Educational Department.		
For salary of secretary of board of education, to be appropriated out of the available school fund..	1,800	1,800

Miscellaneous.	YEARS ENDING	
	Feb. 29, 1890	Feb. 28, 1891
For attorney's fees in the case now pending in the supreme court, styled "De Gress vs. Hubbard et al.," employed under joint resolution of the Fourteenth Legislature	\$750	
laying and furnishing a two-inch pipe, fifty feet of hose and appurtenances necessary to introduce water into the land office for purposes of fire protection and drinking and other uses...	280	
water for fire protection and for use at the capitol grounds, the governor's mansion and grounds, and general land office.....	900	\$900

Sec. 2. Whereas, the numerous amendments and changes made to this bill by the House which will doubtless necessitate the appointment of a joint conference committee of the two houses to consider the differences between the two houses, together with the fact that the day of final adjournment of this session of the Sixteenth Legislature is near at hand, creates an imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days, that this bill may be read a third time and placed upon its final passage, it is therefore hereby enacted that said constitutional rule be and the same is hereby suspended.

Approved April 23, A. D. 1879.

Takes effect from and after its passage.

CHAPTER CXLIV.—An act to amend title fifty-three, chapter two of the Revised Civil Statutes of the State of Texas, adopted at the present session of the Legislature, by adding article 2942a.

Section 1. Be it enacted by the Legislature of the State of Texas, That title fifty-three, chapter two of the Revised Civil Statutes of the State of Texas, adopted at the present session of the Legislature, be amended by adding article 2942a, to read as follows:

"Article 2942a. Should any insurance company fail or neglect to pay off and discharge any execution issued upon a valid final judgment against said company within thirty days after notice of the issuance thereof, then in that event the certificate of authority of said company to transact business of insurance shall be revoked, cancelled and annulled and said company shall be prohibited from transacting business of insurance in this state until said execution be satisfied."

Sec. 2. That whereas this session of the Legislature is so near its close that this bill cannot become a law unless the constitutional rule requiring the same to be read on three several days is suspended, and this amendment to the law being a necessity, an emergency exists for the suspension of the said rule, and it is so ordered.

Approved April 24, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CXLV.—An act for the relief of actual occupants of the public lands.

Section 1. Be it enacted by the Legislature of the State of Texas, That any person who has occupied and is now occupying any portion of the public domain as a homestead subject to such occupancy under any previous or existing law, who may wish to make application for a homestead, shall have the right to make such application in accordance with the provisions of existing law, at any time within twelve months from the date of the approval of this act; provided, that such occupants shall not acquire any right to any land which has been prior to the taking effect of this act, filed upon or surveyed by virtue of a genuine and valid land certificate.

Sec. 2. The importance of the immediate passage of this act, in order that the occupants of the public domain mentioned in the first section of the act may proceed at once to secure their titles to their homes without further risk to their rights, and the lateness of the present session of the Legislature, creates an emergency and imperative public necessity, and it is therefore enacted that the rule requiring bills to be read on three several days be suspended, and that this act be in force from and after its passage.

Approved April 24, A. D. 1879.

Takes effect from and after its passage.

CHAPTER CXLVI.—An act to compel collectors of taxes in counties wherein subsidies have been granted to railroads or other works of internal improvements, to receive the state and county taxes from persons who refuse to pay the tax levied for such purpose.

Whereas, In a number of counties in this state money subsidies have been granted to railroads or other works of internal improvement; and

Whereas, The people in such counties, in many instances, are refusing to pay the tax levied for the payment of such subsidies, and are disputing the validity of the same; and

Whereas, the collectors of taxes of several of such counties are refusing to receive the tax levied for state and county purposes without the payment at the same time of such subsidy tax, and are thereby greatly delaying and obstructing the collection of state and county revenues, therefore there exists a public imperative necessity and emergency for the suspension of the rule which requires this bill to be read on three several days in each house; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That collectors of taxes for such counties wherein taxes have been levied for the payment of subsidies granted to railroads or other works of internal improvement, and who may be vested with authority to collect such subsidy tax, are hereby authorized and required to receive the state and county taxes, where the same are tendered for payment, and receipt therefor, except the said subsidy tax, and shall not refuse to receive and receipt for such state and county taxes on account of any refusal or failure of the taxpayer to pay such subsidy tax.

Sec. 2. Any tax collector who shall violate the provisions of this act shall be liable on his official bond for such damages as may result to any one by reason of such violation.

Sec. 3. That it shall be lawful for said collectors to proceed to collect the county and state taxes in such manner as the law provides without at the same time proceeding to collect subsidy taxes; provided, this law shall not be so construed as to destroy any present remedy for the collection of subsidy taxes. That an imperative public necessity exists for authorizing collectors of taxes to proceed in accordance with this act as such collectors in several counties as are described in section one are now engaged in the collection of taxes, therefore this act shall take effect and be in force from and after its passage.

Approved April 24, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CXLVII.—An act to provide for the assessment and collection of taxes on lands that have not been rendered for assessment and taxation from the year 1871 to 1876, and repealing "An act to enforce the collection of delinquent taxes on lands assessed since January, 1870."

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be the duty of the comptroller of the state, as soon as practicable, to have compiled from the records of his office, lists showing the names of parties rendering lands in the organized counties of this state from 1871 to 1876, inclusive of both years, which lists shall also show the names of the grantees, in case they be given on the rolls or records, the number of acres rendered, and the year for which the rendition is made; separate lists will be made of all the parties rendering on grants where the renditions can be identified as belonging to particular grants, and the grants will be credited with the renditions, showing by whom rendered, number of acres rendered, and where rendered; also, lists shall be compiled showing the names of parties rendering, where there are two or more grants in the name of one grantee in a county, stating the grant, and number of acres rendered; also, lists showing renditions by parties where the grantees as given cannot be found on the abstract of lands of the county, with such description as appears on the records.

Sec. 2. The comptroller shall forward to the county commissioners' court of the counties, as soon as practicable, the lists described in the foregoing section, for the purpose of compiling therefrom accurate lists of the unrendered lands in their respective counties, from 1871 to 1876, with the aid of the tax assessor of the county and the county surveyor; and the county commissioners' court shall fix a reasonable compensation for the surveyor and assessor.

Sec. 3. Upon receipt of the lists herein described, the county judge shall give notice by posting in six public places in the county that lists of assessments on lands in the county, from 1871 to 1876, have been filed for correction and revision, and for all parties interested to examine the lists for deter[m]ining whether their respective renditions and assessments have been properly entered.

Sec. 4. It shall be the duty of the commissioners' court, at regular or called sessions, to hear the application of parties at interest, to correct the records so as to credit grants with assessments which they may claim to have made on grants; and to generally do all their discretion may

suggest to credit the grants with assessments of parties; and to rectify imperfect descriptions of parties who may have rendered lands, but whose assessments are not identified, so as to be able to compile a list of the unrendered lands, with the aid of the county assessor and surveyor, so as no parties at interest who may have rendered lands in good faith, will be embarrassed by their erroneous descriptions, said court being empowered to adjust any and all claims by parties who may have rendered their lands, or paid their taxes, so as their interests will not be disturbed. And such adjustment and settlement as the said court may make, as to the amount of unrendered lands, shall forever relieve all other lands in their respective counties from any claim for state or county taxes up to, and including 1876, except in cases where lands have been sold for taxes since 1871, and bid off to the state.

Sec. 5. At the expiration of one year from the date of receipt of the records in the county from the office of the comptroller, it shall be the duty of the commissioners' court, county surveyor and county assessor to make a complete compilation of the credits allowed on each and every grant in the county; showing the original grants in alphabetical order, and the names of the parties entitled to credits of renditions on the grants respectively, and the number of acres belonging to the credit of each party; the compilation shall also show the balance of acres on each grant for each of the years separately on which it appears that taxes are due, and the value of such unrendered lands. No lands shall be liable for taxation under this act until the next year succeeding the year in which patent was issued.

Sec. 6. The compilation required in the foregoing section shall be delivered to the assessor of taxes, who will make out a roll showing the names of the original grantees of tracts which are unrendered, the number of acres unrendered for each of the years from 1871 to 1876, and the taxes thereon, state and county; said taxes to be calculated at the rates of state and county taxation for the years named; said roll shall be in duplicate, one copy of which shall be delivered to the collector of taxes and the other forwarded to the office of the comptroller of public accounts.

Sec. 7. The assessors shall be allowed five per cent. on all taxes assessed for state and three per cent. on all county taxes assessed on the rolls of unrendered lands.

Sec. 8. Upon the receipt of the unrendered rolls by the collector of taxes of a county, he shall immediately advertise by notice in six public places in the county that he has said rolls in his hands for collection of the taxes, and that at the expiration of three months from the date of the notice, he will on the first Tuesday following proceed to sell at public outcry the several tracts or parcels on which taxes appear due, for the taxes of each and every year for which they may appear as due.

Sec. 9. At the time designated in the notice of the collector of taxes he will proceed to sell at public outcry all lands on which taxes appear as due on the rolls of unrendered lands under the same rules as are prescribed by general law for sales of lands for current taxes; and in making said sales he shall be governed by instructions from the comptroller of public accounts as to the manner of aggregating taxes of several years when taxes are due for more than one year on a grant, and for making returns of sale and settlement therefor.

Sec. 10. The collector of taxes shall be entitled to retain five per

cent. of all state taxes collected under this act, and three per cent. of all county taxes so collected.

Sec. 11. It shall be required of the collector in making deeds of lands sold to individuals under this act to set forth in said deeds the names of parties whose interests are excluded, where he sells the residue of a tract that may be partly rendered, and convey to such purchaser all the residue of a tract that may be bought at a tax sale after deducting the interests of parties who appear as rendering the lands.

Sec. 12. Lands sold to the state under this act can be redeemed by the owners by payment of double of the state and county taxes assessed thereon to the collector of taxes of the county in which the land is situated, under such rules as may be prescribed by the comptroller of public accounts, within two years from the date of sale.

Sec. 13. Where the owner of land sold to an individual purchaser for taxes makes affidavit and files the same with the comptroller of public accounts, that he has used diligence to find the purchaser of the same for the purpose of redemption, and that said purchaser cannot be found, or is a non-resident of the county in which the land is situated, or is a non-resident of the state, such owner may deposit the amount necessary to redeem the land in the state treasury to the credit of the purchaser, and the comptroller shall thereupon issue a certificate of redemption to said purchaser canceling the deed to said purchaser; which certificate shall be admissible of record in the county in which the land is situated when signed and sealed by the comptroller with the seal of his office, said payment and deposit to be made within two years from the date of the sale.

Sec. 14. Prior to date of any sale under the provisions of this act, where lands appear as unrendered from 1871 to 1876, or for any of said years, if the owner of said land will pay all taxes assessed from and inclusive of the year 1873 to and inclusive of 1876, said payment shall be held as an extinguishment of all claims of the state or county for all taxes prior to 1873; and when said lands, or any part thereof, has been sold for taxes prior to 1871, and bid off to the state, said payment of taxes from and inclusive of taxes of 1873, shall be valid as an extinguishment of all prior dues, taxes, or costs, or penalties of every description, and said sale shall be held as canceled.

Sec. 15. Where it appears that a tract or parcel of land has been assessed from and inclusive of the year 1873 to and inclusive of 1876, the commissioners' court shall make no account of taxes against said tract for years prior to 1873, but the back taxes and penalties of every description will be held as satisfied and extinguished, and any sale to the state, made prior to 1871, of said tract, will be canceled and held for naught.

Sec. 16. In making up the rolls of balances of unrendered property, the commissioners' courts are fully empowered and authorized, in cases where there is only a small portion of a grant appearing as unrendered for any year from 1871 to 1876, to strike out said balance and make no account of taxes against said unrendered portion of such grant; said court, in its discretion, being empowered to judge of the individual case and to determine as to whether the interests of the state or county will be prejudiced by striking out unrendered balance.

Sec. 17. In making up the unrendered list of lands, no taxes will be held as due on tracts or parts of tracts until the year next succeeding the year in which the patent was issued, as shown by the printed copy of abstract of titles and patented lands issued from the general land office.

Sec. 18. That "An act to enforce the collection of delinquent taxes

on lands assessed since January, 1870," approved August 18, 1876, be and the same is hereby repealed.

Sec. 19. The fact that large sums in the shape of taxes on unrendered lands are being lost to the state every year, and the near approach of the close of the present session of the Legislature making it impracticable that this bill shall be read on three several days, therefore an imperative public necessity and emergency exist, authorizing the suspension of the constitutional rule requiring bills to be read on three several days; and it is therefore enacted that this act be in force and take effect from and after its passage.

Approved April 24, A. D. 1879.

Takes effect from and after its passage.

CHAPTER CXLVIII.—An act to amend article 4761 of the Revised Civil Statutes of the State of Texas, adopted at the present session of the Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That article 4761 of the Revised Civil Statutes be amended so as to read as follows:

Article 4761. The collector of taxes whenever he may receive as much as five hundred dollars (\$500) or more belonging to the state, shall pay the same over to the state treasurer in such manner as may be directed by the comptroller of public accounts or by law, reserving only his commission on the same and to enable him to do so, he may at his own risk, secure and send the same in postoffice orders or solvent drafts on solvent banks, at not more than the usual rates of exchange, to be paid by the state; and it shall be the duty of the comptroller to enforce a strict observance of this act; and the collector of taxes shall finally settle with the comptroller and pay into the treasury all funds in his hands arising from taxes assessed for the previous year and all occupation taxes collected to date, on or before the first day of July of each year; provided, that whenever the collector shall be authorized to pay any warrant, he shall be permitted to pay the same over to the treasurer as money.

Sec. 2. And the fact that the revenues of the state have been and are being collected, and by some collectors withheld from the treasury, creates an imperative public necessity for the immediate passage of this bill, which by reason of the nearness of the close of the present session of the Legislature cannot be read on three several days, it is enacted that the constitutional rule requiring the reading of the same on three several days, be and the same is hereby suspended, and for the above reasons an emergency exists requiring that this bill go immediately into effect, it is therefore enacted that the same take effect and be in force from and after its passage.

Approved April 24, A. D. 1879.

Takes effect from and after its passage.

CHAPTER CXLIX.—An act requiring the assessor of taxes of Dallas county to perform additional duties.

Section 1. Be it enacted by the Legislature of the State of Texas, That in addition to the duties of assessor of taxes of Dallas county, as

heretofore, it is hereby made the duty of said assessor to make a duplicate roll of the property assessed in the city of Dallas, which roll, when completed, shall be delivered to the collector of taxes of the city of Dallas, and said assessor shall receive from the city of Dallas as compensation for such copy of the city assessment, the sum of one hundred dollars. Said assessment roll shall be completed and delivered to said city collector of taxes, on or before the first day of June of each year, not including the year 1879.

Sec. 2. On or before the first day of January, 1880, and each year thereafter, the city council shall, by resolution (a copy of which shall be furnished the county assessor), instruct said county assessor in the kind and amount of taxes to be levied each year, to enable said assessor to make the necessary calculations.

Sec. 3. Whereas, the present session of the Legislature is near adjournment, and it is necessary that this bill be enacted in order to secure to the city of Dallas greater economy in the administration of her government, an emergency and imperative public necessity exists that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved April 24, A. D. 1879.

Takes effect from and after its passage.

CHAPTER CL.—An act to amend article 97, chapter three, title four Penal Code, of "An act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas," passed February 21, 1879.

Section 1. Be it enacted by the Legislature of the State of Texas, That article ninety-seven (97) of chapter three, title four, Penal Code, of "An act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas," passed February 21, 1879, be so amended as to hereafter read as follows:

Article 97. Within the term "misapplication of public money" are included the following acts: First—The use of any public money in the hands of any officer of the government for any purpose whatsoever, save that of transmitting or transporting the same to the seat of government and its payment into the treasury; second—the exchange by any officer of one character of public funds in his hands for those of another character—the purchase of bank check or postoffice orders in exchange for transmission to the treasury, is not included in this class; third—the deposit by any officer of the government of public money in his hands at any other place than the treasury of the state when the treasury is accessible and open for business, or permitting the same to remain on deposit at such forbidden place after the treasury is so open; fourth—the purchase of state warrants or other evidence of state indebtedness by any officer of the government with public money in his hands; fifth—the retention in his hands by any collector of taxes of any funds belonging to the state for thirty days after receiving notice from the comptroller of public accounts to pay the same over to the treasurer as prescribed in article 4761 of Revised Civil Statutes; sixth—the willful failure of any officer to pay into the state treasury at the time prescribed by law whatever funds he

may have on hand; seventh—the special enumeration of cases of misapplication above set forth, shall not be understood to exclude any case which, by fair construction of language, comes within the meaning of the preceding language; provided, that this act shall not be construed to prevent collectors of taxes from paying warrants drawn by the comptroller in favor of officers living in their district or county, as may be provided by law. The offense defined in subdivisions five and six of article 97, of this act, when committed in any county in this state may be prosecuted in the district court of Travis county, or in the county where the money was received.

Sec. 2. The late hour of the session creates an imperative public necessity that the rule requiring that this bill be read on three several days be suspended, and it is so ordered.

Approved April 24, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CLI.—An act to provide for the printing, binding and distribution of the Revised Civil Statutes, Penal Code and Code of Criminal Procedure, adopted and established at the present session of the Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Revised Civil Statutes, Penal Code and Code of Criminal Procedure adopted and established at the present session of the Legislature, shall, as soon as practicable, be printed and published under the superintendence and direction of the board of public printing, and in accordance with the provisions of this act.

Sec. 2. Said Revised Statutes, Penal Code and Code of Criminal Procedure, and the amendments thereto, passed by the Sixteenth Legislature, shall, together with the constitution of this state and of the United States, be published in a volume to be entitled the "Revised Statutes of Texas," and in the publication thereof the head notes, marginal notes and reference, title, chapters and articles as contained and numbered in the acts by which the same were adopted and established shall be retained and published therein, together with a full and accurate index to each Code and the Revised Statutes in the preparation of which the index to the bills reported by the commissioners appointed to revise the laws shall be conformed to the volumes to be published and adopted as the index thereto, so far as the same shall be found to be correct, and the governor shall appoint a codifier whose duty it shall be to select from the acts passed at the present session of the Legislature all amendments to said Codes and Revised Statutes and insert the amended articles in the place of the original articles of the acts adopting the Codes and Revised Statutes, and where new articles have been added to any chapter and title he shall insert the new articles in their proper places, and shall note by marginal or foot references, the page [of] an act amending an article, or by which a new article was enacted, and where any general law passed at this session modifies an article, but the same is not amended and re-enacted in said law, he shall leave the article of the Code and Revised Statutes as it was adopted, but shall by marginal or foot note refer to the law so modifying the article. Said codifier shall have his work done by the time the publisher contracted with under this act is ready for the

copy. He shall prepare an accurate index of each Code and the Revised Statutes as amended and shall read and revise the proof of the statutes, indexes, etc., as printed, and shall receive for his services the same compensation as was allowed the commissioners who revised the Codes and Revised Statutes for the time he is actually engaged in the duties required of him, in no case to exceed four hundred dollars, the same to be paid upon the certificate of the governor out of the amount appropriated for printing the Revised Statutes; and the printing board may within their discretion cause said edition to be electrotyped or stereotyped at the discretion of the board.

Sec. 3. The Statutes and Codes aforesaid shall be printed on the best quality of book paper in size of page, style and type corresponding with the printed bills reported by the commissioners to the Legislature as aforesaid, and there shall be printed ten thousand copies thereof, or so many thereof as said printing board shall prescribe, bound in one volume, containing the whole as provided in section two of this act. The binding shall be of the best style and workmanship and in law sheep of the best quality, and the title page of each volume shall recite and show that it is published by the authority of the State of Texas, and each shall be authenticated by the certificate of the secretary of state annexed thereto as other laws when published are required to be certified.

Sec. 4. The board of public printing shall, immediately after the passage of this act, advertise for thirty days in five daily newspapers of this state for sealed proposals for printing and binding and electrotyping the laws, as aforesaid, and shall, on the day fixed in the advertisement, in the presence of such persons as desire to be present, proceed to open the proposals and award the contract to the lowest and best bidder, which proposals shall state the price per volume at which the bidder proposes to electrotype, print, bind and furnish under the superintendence and direction of the board, the laws as herein provided, and no bid or proposal shall be considered that is not accompanied by a guaranty of two or more sufficient sureties that if the contract should be awarded to the bidder he will execute the necessary bond for the performance of the work in the manner and style provided in this act, and the person or persons to whom such contract is awarded shall, within ten days after receiving notice thereof, execute a bond to the State of Texas in the sum of twenty thousand dollars, with two or more sufficient sureties, to be approved by the board, conditioned for the faithful performance of the work in the manner and style herein prescribed and according to the provisions of this act, and for the delivery of said volumes to the secretary of state on or before the first day of September, 1879, or in the discretion of the board within such time as they may determine, the work to be done within the shortest time practicable, and the volumes may be received, if necessary to an earlier distribution, in numbers of a thousand at a time, as the work progresses, and the right shall be reserved by the board to reject any and all bids or proposals, if in their judgment the terms proposed are not favorable to the state.

Sec. 5. Upon the delivery by the contractor of the volumes aforesaid, to the secretary of state, executed according to the terms of the contract and accepted by the board, the amount due therefor shall be audited, allowed and paid as provided by law in cases of other public printing and the statutes in force in relation to public printing shall be applicable to the contract under this act in all matters not herein otherwise provided, and the secretary of state shall, as soon as practicable, proceed

under the copyright laws of the United States to secure the copyright of said work in favor of the State of Texas.

Sec. 6. The Revised Statutes and Codes aforesaid shall be distributed in the same manner as the acts of each session of the Legislature are required to be distributed, and single copies may be sold by the secretary of state to attorneys and other citizens of the state wanting the same for their own use, at the cost of two dollars and fifty cents per volume, exclusive of postage; the proceeds of such sales to be paid to the state treasurer and the secretary of state to report thereon in his biennial report.

Sec. 7. The early adjournment of the Legislature and the necessity for the publication and distribution of the laws aforesaid, creates an imperative public necessity which justifies the suspension of the rule requiring this bill to be read on three several days, and it is so suspended; and the fact that the laws aforesaid take effect at so early a date as to require that immediate steps be taken to provide for their publication and distribution creates an emergency, and it is therefore enacted that this law take effect and be in force from and after its passage.

Approved April 26, A. D. 1879.

Takes effect from and after its passage.

CHAPTER CLII.—An act to amend sections fifteen and twenty of an act entitled “an act to provide for the protection of the frontier of the State of Texas against the invasion of hostile Indians, Mexicans or other marauding or thieving parties,” approved April 10, 1879.

Section 1. Be it enacted by the Legislature of the State of Texas, That section fifteen of said act shall be amended so as to read as follows:

Section 15. The pay of officers, non-commissioned officers and privates, shall be as follows: For captains or commanders of companies, one hundred dollars; lieutenants, seventy-five dollars each, when not commanding companies; first sergeants, fifty dollars; other or duty sergeants, thirty dollars each; corporals, thirty dollars each; and privates, thirty dollars each per month for each and every month of actual service.

Sec. 2. That section twenty of said act shall be amended so as to read as follows:

Section 20. That the pay of officers, non-commissioned officers and privates, shall be as follows: Majors, one hundred and twenty-five dollars; captains or commanders of companies, one hundred dollars each; lieutenants, when not commanding companies, seventy-five dollars each; first sergeants, fifty dollars each; other or duty sergeants, thirty dollars each; corporals, thirty dollars each; and privates, thirty dollars each per month, and nothing shall be paid by way of commutation.

Sec. 3. The near approach of the close of the session of the Legislature creates an imperative public necessity for the immediate passage of this act, and the necessity for organizing the frontier forces upon a cheaper basis than heretofore, creates an emergency that this act take effect and be in force from and after its passage, and it is so enacted.

Approved April 26, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CLIII.—An act to repeal articles 4039, 4040, 4041 and 4042 of the Revised Civil Statutes of the State of Texas, passed at the present session of the Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That articles 4039, 4040, 4041 and 4042 of the Revised Civil Statutes of the State of Texas, passed at the present session of the Legislature, be and the same are hereby repealed.

Sec. 2. That the late period of the Legislature at which this bill is introduced, and the great expense that will be entailed upon the state if said articles remain in force, creates an emergency and a public necessity which requires the immediate passage of this act; and that the same take effect and be in force from and after its passage.

Approved April 26, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CLIV.—An act amendatory of and supplemental to chapter three, title seventy-eight of the Revised Civil Statutes of the State of Texas, adopted at the present session of the Sixteenth Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That articles 3714, 3715, 3717, 3720, 3733, 3737, 3740, 3744, 3745, 3747, 3748, 3749, 3750, 3752, 3753, 3754, 3755, 3757, 3758, 3759, 3760, 3763, 3766, 3767, 3770 of the above recited chapter be amended so as to read as follows:

Article 3714. The state board of education may, in their discretion, appoint some competent person as secretary of the board, who shall hold his office during the pleasure of the board, and shall receive an annual salary of eighteen hundred dollars, payable out of the available school fund. The secretary shall take the oath of office prescribed by the constitution, and shall perform such official duties as may be required of him by the board.

Article 3715. The state board of education shall, first—keep a complete record of all its proceedings, which shall be signed by the president of the board and attested by the secretary; second—they shall cause to be filed all reports, documents and papers transmitted to them by county or city school officers and keep a complete index of the reports; third—they shall advise and counsel with the school officers of counties, cities and towns as to the best methods of conducting the public schools, and shall be empowered to issue instructions and regulations binding for observance on all officers and teachers in all cases where the provisions of the school law may require interpretation in order to carry out the designs expressed therein; also, in cases that may arise in which the law has made no provision, and also where necessity requires some rule in order that there may be no hardships to individuals and no delays or inconvenience in the management of school affairs; fourth—they shall, after the close of the present session of the Legislature, cause to be printed in pamphlet form, for general distribution, fifteen thousand copies of this law.

Article 3717. The state board of education shall one month prior to the meeting of each regular session of the Legislature, and ten days

prior to the meeting of any special session thereof, at which under the governor's proclamation convening the same any legislation he had respecting the public schools, make a full report of the condition of the public free schools throughout the state. Such report shall show: First—the whole number of white and colored schools which have been taught in each county and city or town during the preceding scholastic year. Second—the number of pupils, white and colored, in attendance receiving tuition free of charge. Third—the number paying tuition. Fourth—the number of white and colored children within scholastic age in the state. Fifth—the number of children within scholastic age who have not attended school. Sixth—The number within scholastic age unable to read. Seventh—the amount of public free school fund. Eighth—how the available school fund for the previous year has been distributed and expended. Ninth—the number of public school houses in each county, city or town, with a description of their kind and condition. Tenth—and such other information and suggestions as they may deem important for promoting education.

Article 3720. It shall be the duty of the board of education, on or before the first day of July in each and every year, to make an apportionment of the available school fund appropriated by the Legislature among the several counties of the state, and to the several cities and towns constituting separate school organization as herein provided, according to the scholastic population upon the latest and most reliable data. They shall deliver an abstract of such apportionment to the comptroller of public accounts, and to each county judge, and to the mayor of each of such cities or towns as may have assumed control of their public schools, a statement of the amount apportioned to his county, city or town, as the case may be; and they shall issue to the county treasurer of each county, and to the city treasurer of each city or town having control of the public schools, a certificate for the amount of the available school fund so apportioned to his county, city or town, which certificate shall be signed by the president of the board of education, countersigned by the comptroller of public accounts and attested by the secretary of the board.

Article 3733. It shall be the duty of the assessor of taxes for each and every county in the state prior to the first day of June of each and every year, to take an accurate census of all the children within their respective counties, who will be of the age of eight and under the age of fourteen years, on the first day of September next succeeding the taking of such census; and a separate census shall be taken of such children as are embraced within the corporate limits of any city or town in his county, as may have assumed control of the public schools therein.

Article 3737. Such census shall be verified by the affidavit of the assessor, and shall be by him returned to the county judge on or before the tenth day of June in each year.

Article 3740. The assessor shall receive as compensation for taking such census and making out such abstracts, and other duties required of him in connection therewith, for the first one thousand children enrolled five cents per capita, and for all children so enrolled in excess of one thousand three cents per capita, to be paid upon warrant of the comptroller, out of available school fund, by the tax collector of the county, upon the certificate of the county judge, attested by his signature and the seal of his office, that said census and abstracts have been delivered to him as required by law.

Article 3744. It shall be the duty of the county judge of each county in this state: First—to appoint a board of examiners, as hereinbefore provided for. Second—to receive applications for teachers' certificates of competency; to convene the board of examiners, and on a favorable report of said board, to issue such certificate; to renew such certificate of competency if satisfied of propriety thereof, and to cancel the same under such circumstances as are hereinafter provided. Third—to distribute such blanks and forms for use by teachers of the public free schools of his county as may be furnished to him by the state board of education. Fourth—to act upon the bond of the county treasurer as hereinbefore required, and if approved by him, to certify the execution and his approval of the same to the state board of education. Fifth—to file one copy of the assessor's abstracts of scholastic census in his office, and to forward the other copy, with a memorandum of the date of its delivery to him, to the state board of education, at the seat of government, on or before the fifteenth day of June of each year. Sixth—to receive and pass upon petitions for organization of school communities, appoint trustees, and to distribute the available school fund among the several organized school communities of his county, as hereinafter provided. Seventh—to receive and pass upon all applications for the erection and purchase of school houses. Eighth—to approve warrants lawfully drawn on the treasurer against the available school fund, and to draw warrants for appropriations made for building or purchasing public school houses. Ninth—to enter all orders made by him in the discharge of his duties under this chapter in a well bound book to be kept for that purpose. Tenth—to approve contracts made between teachers and trustees, if said contracts be executed in conformity to law and instructions from the state board of education, or if not so executed to cause the same to be amended so as to comply with the terms of the law and instructions from the board of education made in pursuance thereof. Eleventh—to discharge such other duties as may be prescribed in this chapter.

Article 3745. County judges shall be paid for their services in the administration of the public school affairs of their respective counties as follows: For disbursement of five hundred dollars or less of state school fund, twenty-five dollars shall be allowed; for disbursement of five hundred dollars and not exceeding one thousand dollars, fifty dollars shall be allowed; for disbursement of each additional thousand dollars, or fractional part thereof, ten dollars shall be allowed, and ten per cent. on the salary thus allowed shall be added thereto for postage, stationery and printing expenses connected with the administration of the school law. Said compensation herein authorized shall be paid to the county judge by the county treasurer, out of the public school fund upon the order of the commissioners' court, in such payments as said court may determine.

Article 3747. The bona fide residents of this state, desiring so to unite in the organization of a free school community, shall make an application in writing to the county judge on or before the first day of August of each year, stating that they desire, in good faith, to organize a free school under the provisions of this law, and shall ask that their just pro rata of the available school fund of the county, be set apart for the benefit of their school community. Said petition shall be signed in person by each petitioner, and should any petitioner be unable to sign his or her name, then said petitioner shall authorize the signing of his or her signature to the petition in the presence of at least two lawful witnesses.

Article 3748. Such petition shall set forth: First—that the applica-

tion is made in behalf of a white or colored community, as the case may be. Second—an alphabetical list of the names of the children within the scholastic age. Third the age and sex of each child. Fourth—a similar list of all children within the scholastic age residing in convenient distance to the school house of said community, who have no parents, guardians, or other persons lawfully controlling them; and also a list of children, not of scholastic age, who, it is proposed, shall be pupils of the community school. Fifth—the capacity of the school house, and the character of other school conveniences, if any. Sixth—the names of three or more competent persons to act as trustees for such school community. And the trustees of the community shall have the control of the public school house, and during the time in which no public school is being taught, may rent out the house for such rent as can be obtained; such rent to be used to keep in repair such school house. Seventh—that no similar petition has been signed by the petitioners for any other community for the scholastic year for which said community is then being organized. And should the seventh statement prove untrue as to any of the signers of said petition, the children under the control of such signer shall forfeit their interest in the school fund for the scholastic year for which such community is being formed.

Article 3749. On receipt of such petition the county judge shall revise and correct it by comparing the list of names with the official census returns, and shall keep the same open for such further corrections as may be shown to his satisfaction to be just and proper, until the first day of August of each year, at which time, if satisfied that the petition is in good faith, he shall enter an order in a book kept for that purpose, sanctioning the establishment of such school community, and shall designate it by its name and number.

Article 3750. Such communities may be organized for male and female schools, separate or mixed, as the population and necessities and conditions of each community may require; provided, that in towns of not more than fifteen hundred inhabitants, no more than two school communities for white children and two communities for colored children shall be organized.

Article 3752. Three trustees shall be appointed by the county judge for each community school, and the three citizens named in the petition shall in all cases be appointed trustees, unless the county judge be satisfied from personal knowledge that the parties so named are either unworthy or incompetent. Said trustees shall discharge such duties as are herein prescribed, or which may be prescribed by the board of education, and shall see that the schools for which they are trustees are conducted in accordance with the provisions and limitations of this law. Said trustees shall be removed from office by the county judge upon the written application of a majority of the patrons of the school.

Article 3753. It shall be the duty of the trustees of a school community, already provided with a school house, to contract with a teacher holding a certificate of competency from the county judge to teach school for the community for as long a period as the school fund entered to the credit of the community will warrant. The school shall open at such times as the trustees may decide, and be taught continuously until the close of the term, unless suspended by the trustees. The trustees shall, in some public way, give two weeks notice of the time of opening the school.

Article 3754. The contract entered into between the trustees and

teacher shall be written and shall specify: 1. The grade of certificate held by the teacher. 2. The salary or compensation to be paid per month. 3. The length of school term. 4. The average per cent. of daily attendance agreed upon as necessary to warrant the continuance of the school; provided, no such contract shall authorize or permit any part of a school house belonging to the state for the benefit of free schools to be used as a residence, but shall prohibit the same.

Article 3755. After the receipt from the board of education of a certificate showing the amount of state school fund due the county for the next succeeding scholastic year, the county judge shall, on the second day of August of each year, apportion the fund called for in the certificate of credit to the organized school communities in his county, and to such children of scholastic age residing in his county, but duly reported as listed in communities in adjoining counties. The apportionment shall be made upon the basis of the number of state pupils represented by the revised community list on file in the county judge's office, together with the number of like pupils, residents of the county, duly reported as registered in adjoining counties. In no event shall the apportionment to any community exceed the sum necessary for the support of the school as required by law for a longer period than ten months, estimating twenty school days to the month. The apportionment being made, the county judge shall direct the county treasurer to credit each community according to the name and number thereof, with the aggregate pro rata of the school fund ascertained to be due, and he shall give notice to the trustees of the respective communities of the sum entered to their credit.

Article 3757. Pupils not of scholastic age may attend the community school upon payment of such tuition fees as may be agreed upon between the teacher and parents of such children, but trustees shall not enter into any contract or permit any contract to be made whereby the interest of state pupils may be subordinated to the interest of private pupils.

Article 3758. Trustees shall make their contract with the teacher on the basis of the number of children of scholastic age registered in the community, but no teacher shall be entitled to full pay unless the average daily attendance of such pupils amount to at least seventy-five per cent. of the whole number registered on the community list; and if the average daily attendance be less than seventy-five per cent., but as much as fifty per cent., the teacher shall be entitled to seventy-five per cent. of the compensation set forth in the contract. If the average daily attendance should be less than fifty per cent. of all the pupils of scholastic age registered in the community, then the teacher shall only be paid for actual daily attendance, or the trustees, may at their discretion cause the school to be discontinued. In lieu of a contract based on the number of state pupils registered in the community, the trustees may, at their discretion, contract for actual daily attendance only.

Article 3759. Trustees, in making contracts with teachers, shall determine the salary to be allowed or wages to be paid upon the following rates of tuition: To teachers holding a first-class certificate, not more than two dollars; to those holding a second-class certificate, not more than one dollar and fifty cents; and to such as hold a third-class certificate, not more than one dollar per month per capita shall be allowed for pupils within scholastic age. And it shall not be lawful for trustees or teachers to demand as a condition of admittance into school the payment of extra tuition for pupils of scholastic age; provided, that in no event shall the teacher holding a first-class certificate receive from the public free school

fund more than sixty dollars per month; and those holding second-class certificates, more than forty dollars per month; and those holding third-class certificates, more than twenty-five dollars per month.

Article 3760. Trustees may employ one or more assistant teachers whenever the average daily attendance exceeds thirty-five pupils. If the necessity for employment of an assistant teacher is caused by the attendance of private pupils, then the trustees shall require the teacher to employ, at his or her expense, an assistant holding a certificate of competency as a teacher.

Article 3763. When the nearest school community for children within scholastic age residing near a county line is situated in an adjoining county such children may be registered in said community, and the county treasurer of the county in which such children reside shall pay for the tuition of the same out of the fund entered to their credit, upon presentation of a voucher therefor, approved by the county judge of the county in which said children reside.

Article 3766. Any one desiring to teach a public free school shall, unless known to the county judge, present a certificate from the justice of the peace of the precinct in which he or she desires to teach, or in which he or she may reside, or in case the applicant has acquired no residence in this state, then some other certificate satisfactory to the county judge, that the applicant is of good moral character and of correct exemplary habits; the county judge shall thereupon, unless satisfied that some good cause exists for refusing such certificate, convene the county school board of examiners, and direct an examination of the applicant on the branches hereinafter named, as follows, to wit: Applicants for third-grade certificates shall be examined in orthography, reading, writing, arithmetic and geography. Applicants for second-grade certificates shall be examined in the branches named in the third grade, and also in English grammar, composition and history of the United States. Applicants for a first-grade certificate shall be examined in the branches named in the third and second grades, and also in the elementary branches of algebra, geometry and natural philosophy, school discipline and methods of teaching. The examination must be conducted in the English language, and no applicant shall receive a certificate unless the board of examiners be satisfied that he or she is competent to teach the branches named in the grade of certificate applied for, in the English language.

Article 3767. The board of examiners shall examine such applicant as to his or her competency to teach the branches named in the preceding section, and shall make a report of such examination to the county judge, who shall, if such report be favorable, issue a certificate of competency (attaching the county seal thereto) to the applicant according to the grade recommended by the board of examiners, authorizing his or her employment by the trustees of any school community in the county in which the same is issued.

Article 3770. It shall be the duty of teachers to keep an accurate record of the daily attendance of each pupil, and all other statistical data required by the state board of education, and shall make a full report thereof to the county judge at the close of their respective schools.

Sec. 2. The following articles: 3739, 3741 and 3764, and all laws and parts of laws in conflict with the provisions of this chapter as amended are hereby repealed.

Sec. 3. In view of the fact that the present session of the Legislature

will in a few days adjourn sine die, and it being important that this chapter of the Revised Civil Codes of the State of Texas should be amended, an imperative public necessity exists for the suspension of the rule requiring bills to be read on three several days, and it is therefore enacted that said rule be suspended.

Approved April 29, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CLV.—An act to authorize and allow railroad companies to surrender their rights to reservations of the public domain.

Section 1. Be it enacted by the Legislature of the State of Texas, That any railroad company in whose favor a reservation from the public domain of the state may heretofore have been created by any law of the state, general or special, may surrender its exclusive rights to further locate lands within said reservation; and whenever any such railroad company shall file in the office of the secretary of state within ninety days from the passage of this act, an instrument in writing, to be approved as to form by the attorney general, relinquishing or surrendering its claim to any such reservation as aforesaid, said relinquishment or surrender shall, upon the payment of all the costs of suit, if any has been instituted, be accepted by the state, instead of a judicial forfeiture of such company's claim to such reservation; such relinquishment or surrender shall be deemed and held a satisfaction and settlement of said suit; and it is hereby specially provided that the lands that may be relinquished under the provisions of this act shall be subject to location only under the provisions of the act reserving from location lands forfeited to the state, approved August 17, 1876; provided, that nothing herein contained shall be so construed as to prevent any railroad company which may make any such surrender or relinquishment, as hereinbefore provided for, from thereafter proceeding with the construction of its road in accordance with the requirements of its charter; and all the laws of this state regulating such railroads, and acquiring from the state so much land per mile of constructed road, as all other railroad companies can or may acquire for constructing railroads under the general laws then in force, not to exceed sixteen sections of land per mile; and any action taken by any railroad company, under the provisions of this act, shall be considered and held to be a complete acceptance of all the provisions of the constitution applicable to railroads and of the laws of this state regulating railroads.

Sec. 2. The near approach of the close of the session creates an imperative public necessity that the rule requiring this act to be read on three several days be suspended, and it is hereby so suspended.

Approved April 29, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CLVI.—An act granting a land certificate of six hundred and forty acres to each of the indigent veterans who was engaged in the struggle for Texas independence prior to and at the battle of San Jacinto, enrolled under the act approved July 28, 1876.

Section 1. Be it enacted by the Legislature of the State of Texas, That the commissioner of the general land office is hereby authorized

and directed to issue, subject to the provisions hereinafter specified, to each and every person who was enrolled as an indigent veteran under and by virtue of an act approved July 28, 1876, entitled "An act to provide annual pensions for the surviving soldiers of the Texan revolution and the surviving signers of the declaration of Texan independence, and the surviving widows of such soldiers and signers," or who may make proof of being entitled to a pension in pursuance of said law and the provisions of this act, a land certificate in his or her name for six hundred and forty acres, which may be located as headright certificates upon any of the public domain, and patented as in other cases, and the said certificate, and the land located by virtue thereof, shall be exempt from forced sale so long as it shall remain the property of the grantee in said certificate.

Sec. 2. That the comptroller of public accounts is hereby required to furnish the commissioner of the general land office a list of the pensioners enrolled under said act, who may have furnished the required proof of existence and identity on the first day of April, A. D. 1879, and said commissioner is to be governed in the issuance of such certificates by said list as hereinafter provided.

Sec. 3. Each and every person entitled to a land certificate by the provisions of this act, shall make proof before the county judge of the county of his residence, by their affidavit, that they are not physically able to support themselves, and by showing what property, if any, and the value thereof, such person owns in his or her own right, and what property and the value thereof, such person may have sold or conveyed, within twelve months prior to the time of making such affidavit. If it shall appear that such person is the owner of property of the value of five hundred dollars, or that the value of the property sold or conveyed together with the value of the property still owned by such person, amounts in the aggregate to the sum of five hundred dollars, then such person shall not be entitled to the certificate herein provided for, which proof shall be supported by the evidence of two credible witnesses of the identity of such person, and that his or her statements are worthy of belief, and that they believe them to be true; all of which proof shall be reduced to writing and signed by said parties, and certified to by the county judge, under the seal of his office, attested by the clerk, and which shall be furnished the commissioner before the issuance and delivery of the certificate; provided, that should said commissioner have any grounds to believe, or be advised that the applicant is physically able to support himself, or that he is not truly in indigent circumstances, as defined in this act, or that the applicant was fraudulently or illegally enrolled as an indigent pensioner, under the act approved July 28, 1876, then he shall suspend the issuance of the land certificate herein provided for and require further proof, in the manner and to the extent he may designate.

Sec. 4. That in every case the commissioner of the general land office shall before issuing a certificate for six hundred and forty acres of land to any person claiming the same under the provisions of this act, require proof of the following facts: First, that the person upon whose services the claim is founded, did actually perform the services, or do the acts required by the constitution and laws made in pursuance thereof to entitle him or those claiming under or through him to receive said certificate. Second—that the proof of indigence be in strict conformity with this act. Third—that the proofs required to establish these facts shall be record

evidence, which, if necessary, shall be corroborated by parole evidence; and the evidence must be full, conclusive and complete. It shall be the duty of the comptroller of public accounts, in preparing a list for the commissioner of the general land office, as required in section two of this act, to omit from said list the names of all persons he knows, believes or suspects, has been guilty of perpetrating a fraud upon the State of Texas by false swearing, personating another, or in any other manner, and he shall tabulate the said names so omitted, and state the reasons for his action in each case, and he may support said reasons by record evidence or other proof of a credible character, and he shall be governed by the provisions of this section in furnishing a list of the persons who may apply for relief in the future, and may present proofs in support of the application for a certificate. In any and every case in which the commissioner of the general land office considers the proof insufficient, or where there is evidence of fraud committed, or attempted to be committed, upon the generosity of the state, he shall not issue a certificate for six hundred and forty acres of land to any original claimant, or to any one claiming under or through him.

Sec. 5. Before any benefit shall inure to any one under the provisions of this act, a certificate shall be produced by a board of three surviving veterans of the revolution of 1836, who shall be appointed by the governor and one of whom shall be the president of the Veteran Association, stating that they believe that the applicant is entitled under the provision of this act to its benefits; and especially that they are satisfied of the fact that the applicant is in indigent circumstances.

Sec. 6. The near approach of the close of the session makes it an imperative public necessity that the rule requiring this bill to be read on three several days be suspended, and it is therefore so enacted.

Approved April 26, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CLVII.—An act to amend section ten of final title of an act entitled “an act to adopt and establish the Revised Civil Statutes of the State of Texas,” passed at the present session of the Legislature, said section relating to county boundaries.

Section 1. Be it enacted by the Legislature of the State of Texas, That section ten of final title of an act entitled “An act to adopt and establish the Revised Civil Statutes of the State of Texas,” passed at the present session of the Legislature, shall hereafter read as follows, to wit:

“Section 10. That no statute, or part of a statute, creating, adding to or organizing any county or establishing any county seat in this state shall be affected or impaired by the repealing clause of this title or by any law relating to the establishment of county boundaries contained in this act.”

Sec. 2. That the near approach of the end of the session, and the fact that the Civil Statutes passed at this session, change the county boundaries in many instances, creates an imperative public necessity and emergency for the suspension of the rule requiring this bill to be read on three several days, and it is so enacted.

Passed April 14, A. D. 1879.

NOTE—The foregoing act was presented to the governor of Texas for

his approval on the fifteenth day of April, 1879, and was neither signed by him nor returned to the Senate in which it originated, with his objections thereto, within the time prescribed by the constitution, and thereupon became a law without his signature.

(Signed)

JOHN D. TEMPLETON, Secretary of State.

CHAPTER CLVIII.—An Act making appropriations for deficiencies, beginning September 1, 1876, and ending February 28, 1879, and for previous years.

Section 1. Be it enacted by the Legislature of the State of Texas, That the following sums, or so much thereof as may be necessary, be and the same are hereby appropriated out of any moneys in the treasury not otherwise appropriated for deficiencies incurred in the support of the state government for the period of time beginning September 1, 1876, and ending February 28, 1879, and for previous years:

Judiciary.

For fees in felony cases due sheriffs, clerks and district and county attorneys in district and justices' courts.....	\$150,000 00
salary three judges court of appeals.....	50 00
fees of clerks of supreme court.....	1,000 00
fees of clerks of court of appeals.....	1,000 00
stationery, books and furniture and other expenses for court of appeals	750 00
balance due special judges.....	5,000 00

General Land Office.

For contingent expenses	100 00
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Attorney General's Office.

For fees due ex-Attorney General H. H. Boone in felony cases	1,598 30
contingent expenses in January and February, 1879....	50 00
Lee Blocker, porter to Attorney General Clark.....	112 50

Adjutant General's Office.

For pay of members of Hall's state force and expenses and supplies from June 1, 1877, to December 31, 1878, the sum of	46,000 00
stationery, postage and telegraphing	75 00
contingent expenses in repairing and removing arms and ammunition	50 00
storage of arms	100 00

Pensions.

For payment of pensions under the present law.....	190,000 00
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Public Buildings and Grounds.

For gas for governor's mansion.....	60 50
Jordan horticultural company, trees and shrubbery for capitol grounds	122 50

Executive Office.

For recovering fugitives from justice.....	10,000 00
amount due W. A. Milby for services in copying documents in the executive office.....	11 50

For amount due G. W. Berryman for fuel and lights to the executive office.....	5 75
Department of Insurance, Statistics and History.	
For amount due V. O. King, commissioner, for stationery purchased for the department.....	123 55
sundry newspapers.....	178 00
John Price, for services as porter in the department of insurance, statistics and history, two years from September 1, 1876, to September 1, 1878.....	400 00
Penitentiary.	
For sheriffs, for conveying prisoners to the penitentiary...	50,000 00
balance due Kanmacker & Denig for the building of the East Texas penitentiary.....	3,052 53
amount due J. K. P. Campbell, late inspector of the state penitentiary.....	235 15
amount due A. N. Alford, for three barrels of lubricating oil, for use at the penitentiary, purchased by Thos. Caruthers	180 00
amount due F. E. Ruffini, architect and superintendent, for professional services in examination and comparison of plans and specifications for the East Texas penitentiary, and rendering detailed report on the same.....	50 00
amount due S. Carr, for surveying the state lands covered by and adjacent to the penitentiary buildings at Huntsville.....	15 00
amount due S. N. Pickens, inspector of the East Texas penitentiary, for labor as such during the month of January, 1879, fourteen days.....	70 00
paying Geo. W. Grant, for ten acres of land, on which the penitentiary graveyard near Huntsville is located, to be paid on warrant issued by the comptroller on receipt of a warrantee deed to the said land, vesting a perfect title to the same in the state, said deed to be approved by the superintendent of the penitentiary..	150 00
Public Printing.	
For approved accounts of A. H. Belo & Co., Galveston News	\$7,870 66
sundry other newspapers and printers for government printing.....	5,000 00
Miscellaneous.	
For the per diem and mileage of the presidential electors of the State of Texas in 1876.....	\$800 00
payment of persons furnishing registers to county attorneys, purchased by virtue of section 8 of the act approved August 7, 1876.....	300 00
balance due J. W. Ferris for services in revising and codifying the Civil and Criminal Statutes of the state	277 84
balance due B. H. Bassett, for services in revising and codifying the Civil and Criminal Statutes of the state	277 84
amount due Walter Tips & Co.....	77 10
amount due Louis de Tijada, for work in the secretary of state's office.....	750 00

expenses of Hon. S. H. Darden, comptroller of the state, while on mission to New York city to sell the bonds of the state under act of 1876.....	500 00
To pay deficiency in the Deaf and Dumb Asylum.....	1,594 52
For Ernest Krohn, beef for Blind Asylum up to January 1, 1879.....	62 43
A. & F. C. Eans, cedar trees planted in public grounds up to January 23, 1876.....	200 00
G. W. Irwin, furnishing water for plants and trees in public grounds from March 10 to October 15, 1875, balance.....	452 00
Thomas J. Durant, for costs expended as attorney for the state up to December 8, 1873.....	90 60
payment of health officers, guards and employees on the gulf coast under the quarantine laws at other places than Galveston.....	5,000 00
payment of services of detectives, attorneys, informers and prosecutors employed in the detection and prosecution of land forgeries.....	10,000 00
[This appropriation is placed under the control of the governor, to be used in settling finally, at his discretion, with attorneys, detectives, informers and prosecutors in said detection and prosecution, to be paid out on warrants drawn on the treasurer based upon the certificate of the governor; and no settlement shall be made by the governor except upon execution of a final receipt and release to the state by the party paid, of claims accruing to himself as above against the state.]	
For purchase of supplies for the Blind Asylum in the months of January and February, 1879.....	200 00
pay of teachers of public free schools for services rendered prior to July 1, 1873.....	30,000 00

[Warrants drawn on this item shall be payable at the option of the state, on or before five years from the first day of July, 1879, and shall bear interest as prescribed by law.]

Sec. 2. The warrants drawn under this appropriation act (except those in favor of school teachers) shall bear interest at the rate of four per centum per annum from their date, and shall be made payable on or before five years from the first day of July, 1879, and the interest shall be paid annually at the treasury and the payment indorsed upon the warrant; provided, that the treasurer may pay said warrants (except those issued to teachers) in the order of their date and number out of the proceeds of bonds issued to meet deficiencies in the revenue, or out of any money on hand in excess of the amount necessary to meet current expenses of the state government.

Sec. 3. Whereas, the near approach of the day for final adjournment of the first session of the Sixteenth Legislature, together with the fact that this bill must go to the Senate to be passed upon by that body, which will necessarily create some delay, an imperative public necessity exists for the suspension of the constitutional rule requiring this bill to be read on three several days, and it is hereby enacted that said constitutional rule be and the same is hereby suspended. The fact that there is no appropriation to pay the claims herein stated, creates an emergency that requires this act to take effect at once, and it is therefore enacted that this act take effect and be in force from and after its passage.

NOTE.—The foregoing act was presented to the governor of Texas for

his approval on the twenty-third day of April, 1879, and was neither signed by him nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the constitution and thereupon became a law without his signature.

(Signed) JOHN D. TEMPLETON, Secretary of State.
May 7, 1879.

CHAPTER CLIX.—An act to provide for the organization and support of a Normal School at Prairie View (formerly called Alta Vista), in Waller county, for the preparation and training of colored teachers.

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be established at Prairie View (formerly called Alta Vista), in Waller county, in this state, a normal school for the preparation and training of colored teachers.

Sec. 2. The board of directors of the Agricultural and Mechanical College of Texas are hereby authorized and required to organize said school as soon as practicable, so as to admit one student from each senatorial district in this state, and at the least three students from the state at large, to be taken from the colored population of this state, and be not less than sixteen years of age at the time of their admission. Said board shall appoint a principal teacher and such assistant teacher or teachers of said school and other officers as may be necessary for said school, and shall make such by-laws, rules and regulations for its government as they may deem proper, and shall regulate the course of study and the manner of performing labor and the kind of labor to be performed by the students, and shall provide for the board, lodging and instruction of the students without pecuniary charge to said students, and shall regulate the course of discipline necessary to enforce the faithful discharge of the duties of all officers, teachers, students and employes of said school, and shall have the same printed and circulated for the benefit of the people of the state, of the officers and students of said school.

Sec. 3. The board of directors may provide for receiving such a number of female students, and such a number of male students, as in the judgment of said board the school can best accommodate; and shall require all students admitted to said school to sign a written obligation (in a proper book kept for that purpose) binding said student to teach in the public free schools for the colored children of their respective districts at least one year next after their discharge from the normal school, and as much longer than one year as the time of their connection with said normal school shall exceed one year; for which teaching said discharged students shall receive the same rate of compensation allowed other teachers of such schools.

Sec. 4. It shall be the duty of the comptroller of public accounts annually to set apart out of the interest accruing from the university fund, appropriated for the support of public free schools, the sum of six thousand dollars for the support of said normal school, and place said sum to the credit of said normal school, and the same may be drawn by the board of directors on vouchers audited by the board or approved by the governor and attested by the secretary; and on filing such vouchers

the comptroller shall draw his warrant on the state treasury for the same from time to time as the same may be needed.

Sec. 5. The board shall make rules by which students can obtain certificates of qualification as teachers that will entitle them to teach without other or further examination.

Sec. 6. The near approach of the close of this session of the Legislature creates an imperative public necessity for the immediate passage of this act, and the urgent need of such a school creates an emergency requiring that it take effect at once, and it is therefore provided that this act shall take effect from and after its passage.

Approved April 19, A. D. 1879.

Takes effect ninety days after adjournment.

CHAPTER CLX.—An act to establish a State Normal School.

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be established in this state, a state normal school, to be known as the "Sam Houston Normal Institute," in honor of Gen. Sam Houston, the father of Texas; and said institute shall be located at the college formerly known as the "Austin College," at Huntsville, in Walker county; provided, that the citizens of Huntsville shall, within sixty days from the passage of this act, convey to the state for the purposes of said school a valid title to said Austin College, and the grounds belonging thereto; said conveyance to be approved by the governor and attorney general.

Sec. 2. The board of education shall have possession and charge of said institute on the state's receiving a conveyance of the same, and on or before the first day of September next said board shall put into operation a normal school, which shall be conducted in a first-class manner, and under such rules and regulations, as to the government and discipline thereof, as may be prescribed by said board.

Sec. 3. Not less than two students from each senatorial district, and six from the state at large, shall be received in said institute, as state students, who shall receive tuition, board and lodging free, to the extent of the appropriation that may be made, but in no case shall the current expenses of the institute exceed the sum or sums appropriated. The board of education shall make all necessary rules and regulations for the admission of students, and the manner of their appointment or selection. No student shall be received who is not a resident of this state, and at least of the age of sixteen years, and of good moral character.

Sec. 4. All students attending said institute at expense of the state, as provided in the foregoing section, shall sign a written obligation, in a book, to be kept at the institute for that purpose, binding said students to teach in the public free schools of their respective districts at least one year next after their discharge from the normal school, and as much longer than one year as the time of their attendance at said school shall exceed one year; for which teaching said student shall receive the same compensation allowed other teachers of said schools, and said board of education shall make rules by which students may receive certificates of qualification as teachers authorizing them to teach without further examination.

Sec. 5. The board of education may authorize other students to be admitted into said institute, who shall be required to pay tuition, in

whole or in part, as may be prescribed by the board. Said board shall appoint the teachers of said institute and fix their salaries, not to exceed two thousand dollars for the principal and fifteen hundred dollars for assistants.

Sec. 6. The board of education shall appoint a local board of three directors, who shall hold frequent meetings at the institute, have general supervision of the buildings and grounds, and shall perform such other duties pertaining to the institute, and make such reports to the board of education as said board may require. Said directors shall each receive an annual salary, not to exceed one hundred dollars, to be paid out of the fund hereinafter appropriated.

Sec. 7. It shall be the duty of the comptroller of public accounts, annually, to set apart, out of the available free school fund, the sum of fourteen thousand dollars for the support of said normal school, and place the same to its credit, and which may be drawn upon by the board of education, for the current expenses of said school, on vouchers audited by said board or approved by the governor and attested by the secretary; and on filing said vouchers the comptroller shall draw his warrant on the state treasurer for the same. The board of education is authorized to receive from the agent of the trustees of the Peabody education fund such sum as he may tender for the aid of said institute, and shall disburse the same in such manner as will best subserve the interests of said institute.

Sec. 8. The importance of the early establishment of a state normal school, and the near approach of the adjournment of the present session of the Legislature creates an emergency and imperative public necessity for this act to take effect at once, and for the suspension of the rule requiring bills to be read on three several days, and it is therefore enacted that said rule be suspended, and that this act take effect and be in force from and after its passage.

Approved April 21, A. D. 1879.

Takes effect ninety days after adjournment.

JOINT RESOLUTIONS.

No. 1.—Joint Resolution on yellow fever.

Whereas, Great interest has been manifested by the president of the United States and congress on the subject of yellow fever and its prevention, and to test the question of yellow fever in the United States by a system of non-intercourse during certain months with countries in which it undoubtedly originates, and as the joint committee of congress will soon close its labors and report to congress without probably having obtained sufficient data thereon, therefore,

Resolved by the Legislature of the State of Texas, That the prompt action taken by congress in appointing a joint committee, together with scientific experts, to investigate the history of yellow fever, with the view to prevent its recurrence in any portion of our country, is highly commendable.

Resolved, That as the subject is one that concerns the lives, happiness and welfare of the people, it is the opinion of the Legislature of Texas that the natural history of yellow fever should be studied by scientific experts in its original habitats, and it respectfully recommends that congress send such experts to the West Indies, Mexico and Brazil to elicit all the conditions under which it originates, to the end that yellow fever may be excluded from our country, and that commerce may be restricted only so far as may be compatible with public health.

Resolved, That the governor shall furnish copies of these resolutions to the senators and representatives of Texas, to lay before congress and the joint committee on yellow fever, and that these resolutions take effect from their passage.

Resolved, That an imperative public necessity requires that the constitutional rule that this resolution be read three several days in each house should be suspended, and it is therefore suspended.

Approved January 28, 1879.

Takes effect from and after its passage.

No. 2.—Joint Resolution in regard to Aransas Pass Bar.

Whereas, Aransas Pass has, for time immemorial, had ten (10) feet of water on its bar, thus affording easy and indispensable communication for commerce to the city of Corpus Christi and the broad extent of country lying between the Nueces and Rio Grande, dependent on this pass for its business relations; and

Whereas, By unusual currents the water on the Aransas Pass bar has been reduced to four and a half ($4\frac{1}{2}$) feet in depth within two years or

thereabouts, to the most serious injury of the city and large territory above named, practically excluding them from all commerce by water transportation; therefore,

Be it resolved, That our senators in congress be instructed and our representatives be requested to urge upon congress the imperative necessity of making an appropriation for deepening, as soon as practicable the water on the said Aransas Pass bar in conformity with the recommendation already made by the United States survey, for the purpose of restoring on the pass its former usual depth of water, which is of indispensable need for the commerce of the cities of Corpus Christi, Rockport, Fulton and all the adjacent country between San Antonio river and the Rio Grande.

As the present session of congress will terminate by law on the fourth of next month, (March), in order that this resolution may reach congress in time for their action, an imperative necessity exists that it be adopted and go into effect immediately.

The secretary of state is requested to furnish immediately a copy of this joint resolution to each one of our senators and representatives in congress.

Approved February 8, A. D. 1879.

Takes effect from and after its passage.

No. 3.—Joint Resolution granting leave of absence from the state to Hon. Allen Blacker, judge of the twentieth judicial district.

Section 1. Be it resolved by the Senate and House of Representatives of the State of Texas, That the Hon. Allen Blacker, judge of the twentieth judicial district of the State of Texas, has permission to leave the limits of the state, and to remain absent from the state until the fifteenth day of February, 1879.

Approved February 10, A. D. 1879.

Takes effect ninety days after adjournment.

No. 4.—Joint Resolution instructing the senators and requesting the representatives of Texas in congress to favor commercial relations with Mexico.

Whereas, For many years harassing troubles have existed between the people of the United States and Mexico on the Rio Grande borders, leading to estrangements and often bloodshed, interrupting peaceful and commercial relations and causing large expenditures of money on organized military forces kept on said borders, and if a moiety of the money thus expended were appropriated to aiding the extension of railroads in Texas to the Rio Grande, and a line of steamships from Texas to Mexican ports, thereby fostering, in the language of the president of the United States in his late message, "increased commercial intercourse between their people," binding the people of the two countries together by personal acquaintance and ties of mutual interest, it would result in the most effective and permanent protection that could be given to said

borders, and in making friends of enemies, strengthening Mexico and securing her lasting friendship; therefore,

Resolved, first, That the senators of Texas be instructed, and her representatives in congress be requested to use their best efforts to obtain the aforesaid aid from congress.

Resolved, second, That in consequence of the short time intervening before the adjournment of congress, there is a necessity that these resolutions be passed and take effect immediately, and the secretary of state is hereby requested to transmit, without delay, copies of these resolutions to the senators and representatives from Texas in congress.

Approved February 14, A. D. 1879.

Takes effect from and after its passage.

No. 5.—Joint Resolution authorizing and directing the attorney general to institute and prosecute such legal proceedings as may be necessary to establish the title of the state to her university lands in McLennan and Hill counties, and to remove all clouds upon said title.

Whereas, Certain persons have set up some pretended claim to certain portions of the state university lands in McLennan and Hill counties, under some sort of pretended titles, derived otherwise than through the state; and

Whereas, many persons have in good faith purchased said lands from the state, and have settled thereon upon the faith of the state's title; and

Whereas, by the act of March 6, 1875, further payments to the state on account of said purchasers were deferred until the title to said lands should be settled, and it is to the interest of the state, as well as her duty to the said vendees, to have said titles adjudicated and finally cleared and determined; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the attorney general of this state be and he is hereby authorized and empowered, if deemed necessary to protect the rights of the state, to institute such legal proceedings in the proper courts as he may deem proper and necessary for determining and finally settling the title of the state to all or any portion of the university lands situate in said McLennan and Hill counties.

Sec. 2. Be it further resolved, That there is hereby appropriated out of any money in the treasury belonging to the university fund, not otherwise appropriated, the sum of five hundred dollars, or so much thereof as may be necessary, for the purpose of paying the fees of court, cost of taking testimony, and other costs of court necessary in the prosecution of said suit.

Whereas, there is litigation now pending in regard to the lands named in the above resolution, therefore an imperative public necessity exists that steps should at once be taken to guard the interest of the state, therefore, that this resolution take effect and be in force from and after its passage.

Approved February 19, A. D. 1879.

Takes effect from and after its passage.

No. 6.—Joint Resolution making an appropriation to pay interest on the bonded debt of the state to the first day of March, A. D. 1879.

Section 1. Be it resolved by the Legislature of the State of Texas, That the sum of thirty thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any money in the treasury not otherwise appropriated, to pay the interest due on the bonded debt of the State of Texas up to the first day of March, A. D. 1879.

Sec. 2. That as no appropriation has been made to pay the interest on the public debt, due on the first day of March, A. D. 1879, an imperative public necessity and emergency exists for the immediate passage of this resolution, it shall therefore take effect from and after its passage.

Approved February 21, A. D. 1879.

Takes effect from and after its passage.

No. 7.—Joint Resolution instructing our senators and requesting our representatives in congress to ask of the United States government payment of all sums expended by Texas for frontier defense between February 28, 1855, and August 31, 1878; and the payment of the unexpended balance of seven million seven hundred and fifty thousand eight hundred and ten (7,750,810) left with the United States government by this state for the payment of the debt of the late Republic of Texas.

Whereas, By the joint resolution of the congress of the United States, approved December 29, 1845, admitting Texas into the union as one of the states thereof, it was declared that the State of Texas was "admitted into the union on an equal footing with the original states in all respects whatever;" and,

Whereas, section four, article four of the constitution of the United States provides, among other things, that the United States shall protect each of the states against invasion; and,

Whereas, the United States has failed to make good this guarantee to the State of Texas, in consequence of which failure the State of Texas has incurred large and heavy expenses to the amount of one million seven hundred and eighty-seven thousand six hundred and forty dollars and forty-two cents (\$1,787,640 42) in keeping state troops on the frontier to defend the border counties and the citizens thereof against the invasions and depredations of predatory bands of hostile Indians and Mexicans; and,

Whereas, by an act of congress, approved January 21, 1860, there was appropriated one hundred and twenty-three thousand five hundred and forty-four dollars and fifty-one cents (\$123,544 51) to cover expenditures by the State of Texas for frontier defense between January 28, 1855, and January 28, 1861, which has never been paid to or drawn by the State of Texas; and,

Whereas, there is remaining in the United States treasury a balance of one hundred and one thousand one hundred and thirteen dollars and twenty-seven cents (\$101,113 27) of the seven million seven hundred and fifty thousand eight hundred and ten dollars (\$7,750,810) left with the United States by this state to pay the debt of the late Republic of Texas; and,

Whereas, with certain coast improvements, the defense and protection of the frontier of Texas against Mexicans and Indians were prominent parts of the terms of annexation, and as the government and people of Texas, in adopting annexation, relied on the solemn pledges of the United States, given through her accredited agents and resident minister, that the expenditures in making these improvements and "in the military organization necessary to guard her (Texas) extensive frontier should be drawn from the treasury of the union, and not from that of Texas;" therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That our senators be instructed and our representatives in congress requested to ask and earnestly urge of the United States government immediate payment of the one hundred and one thousand one hundred and thirteen dollars and twenty-seven cents (\$101,113 27) balance remaining of the seven million seven hundred and fifty thousand eight hundred and ten dollars (\$7,750,810) left with the United States government by this state to pay the debt of the late Republic of Texas, as aforesaid; and the payment of one hundred and twenty-three thousand five hundred and forty-four dollars and fifty-one cents (\$123,544 51) appropriated by act of congress, approved January 21, 1860, to cover expenditures by Texas for frontier defense between January 28, 1855, and January 28, 1861, which has never been drawn by or paid to the State of Texas, and to further urge by bill or otherwise the prompt payment of all other amounts and sums of money due and owing by the United States to the State of Texas on account of expenditures by this state for frontier defense.

Sec. 2. That the secretary of state be and he is hereby instructed immediately after the passage of this resolution to transmit a true copy of the same to each of our senators and representatives in congress.

Sec. 3. That the near approach of the day fixed by law for the adjournment of congress creates an imperative public necessity for the immediate passage of this resolution; it is, therefore, enacted that it take effect and be in force from and after its passage.

Approved March 13, A. D. 1879.

Takes effect ninety days after adjournment.

No. 8.—Joint Resolution.

Whereas, The Indians at the Fort Stanton reservation and the Fort Sill reservation, have for years been in the habit of leaving those reservations and coming in large bodies into Texas and depredating on the stock of the citizens of this state, in all that section of country lying between the waters of the Canadian and Wichita, as well, in some instances, in other sections of the country; and

Whereas, official information has been received at the adjutant general's department that there are now fully one thousand Indians from the Fort Sill reservation depredating on the upper waters of the Wichita and Pecos rivers, and still others in Donley and Wheeler counties and in the Pan Handle, camping and subsisting by force on cattle stolen from the citizens of that section; wherefore

Resolved by the House of Representatives, the Senate concurring, That our senators in congress be instructed, and our representatives be

requested, to protest to the federal government against those ravages, and obtain such orders and action on the officers of the United States government having the Indians in charge at the Fort Stanton reservation and the Fort Sill reservation, as will prevent any portion of said Indians from penetrating the territory of Texas and depredating on our citizens.

That should it become necessary to obtain an act of congress for the accomplishment of this object, our senators be instructed and representatives requested to procure the adoption of a law restraining such trespass and depredations of property, and that more such robberies have been perpetrated on Texas citizens by the Indians in charge of the United States officers, consenting to their removal from the reservation into the territory of Texas, that provision be made by law for making compensation to the owners of property thus stolen.

Approved March 20, A. D. 1879.

Takes effect ninety days after adjournment.

No. 9.—Joint Resolution authorizing the commissioner of insurance, statistics and history to select geological specimens for exhibition by the International and Great Northern railroad company, for the purpose of displaying the rich and various products of Texas.

Whereas, It is to the interest of this state that her vast resources in minerals, stones and other products should be made known to the world; and

Whereas, there is now in the possession of and belonging to the state a large and well selected collection of rock minerals, stones and other products which are in a manner hidden from the public; and

Whereas, the International and Great Northern railroad company has hitherto greatly aided in displaying at the state fairs at St. Louis, Chicago and other places, the various and rich products of this state, and are still willing and desirous of continuing, without expense to the state, their efforts in this direction; therefore, be it

Resolved by the House of Representatives, the Senate concurring, that the commissioner of insurance, statistics and history be and is hereby authorized to select such geological specimens belonging to the state, the display of which in his judgment would be most advantageous to the state in making known her resources, and deliver same to said company, taking therefor the receipt of said company, conditioned as said commissioner may require for the safe and certain return of said specimens.

Approved March 20, A. D. 1879.

Takes effect ninety days after adjournment.

No. 10.—Joint Resolution in regard to Pelican Island.

Whereas, By an act granting Pelican Island in Galveston bay, to the corporation of Galveston, approved February 2, 1856, it was the intention of the Legislature in making said grant to prevent said Island at any time from being the property of any person or corporation other

than that of Galveston; because said island formed and forms the channel and harbor of Galveston, and was, and is essential to the preservation of said harbor; and, whereas, of late certain persons having obtained judgment against the city of Galveston and levied on said island as the property of said city; therefore, be it

Resolved by the Legislature of the State of Texas, That the State of Texas hereby re-affirms her relinquishment to the corporation of Galveston city of all her right, title and interest in the island and flats known as Pelican, situated in Galveston bay, and north of the city of Galveston, and re-affirms the intention of the Legislature in making this grant to be that the ownership of the same shall be in said corporation of Galveston city; and that said property shall not be subject to attachment, execution or other judicial process for debt or debts of said city; nor shall said corporation have the power to transfer the title to the same to any person or corporation whatever; provided, this act of the state shall not prejudice the rights of any third party, and no improvement shall be made on said island, or connected therewith, that will interfere with the navigation of Galveston bay.

Resolved, That as other claims may be set up against this island and adjuncts, giving trouble and expense to the city of Galveston, there is an emergency and necessity for the immediate passage of this act, and it shall take effect from and after its passage.

Passed March 8, A. D. 1879.

NOTE.—The foregoing act was presented to the governor of Texas for his approval on the eleventh day of March, A. D. 1879, at 4:30 p. m., and was not signed by him or returned to the house in which it originated, with his objections thereto, within the time prescribed by the constitution, and thereupon became a law without his signature.

(Signed) JOHN D. TEMPLETON, Secretary of State.

Takes effect ninety days after adjournment.

No. 11.—Joint Resolution granting leave of absence to Walter Acker.

Section 1. Be it resolved by the Legislature of the State of Texas, That Walter Acker, district attorney of the seventeenth judicial district, is hereby granted leave of absence from the State of Texas until the time for holding the first court in said district.

Approved March 24, A. D. 1879.

Takes effect ninety days after adjournment.

No. 12.—Joint Resolution requesting Senators and Representatives in congress to use their influence in securing loan from general government of four batteries of artillery to Adjutant General.

Section 1. Be it enacted by the Legislature of the State of Texas, That our senators and representatives in congress are hereby requested to secure, if possible, by authority of congress or otherwise, the use of four batteries of artillery to the State of Texas until next apportionment in 1880.

Sec. 2. Such batteries to be placed under control of the adjutant general of the State of Texas, to be placed at such points as he may determine.

Sec. 3. The fact that congress will adjourn at an early date creates an imperative public necessity and emergency for the immediate passage of this resolution, and it is enacted that it be in force from and after its passage.

Approved March 26, A. D. 1879.

Takes effect ninety days after adjournment.

No. 13.—Joint Resolution amending article eight (8) of the constitution of the State of Texas by adding a new section, to be section nineteen.

Section 1. Be it resolved by the Legislature of the State of Texas, That article eight (8) of the constitution of the State of Texas be amended by adding a new section, to be styled section nineteen, to read as follows:

“Section 19. Farm products in the hands of the producer and family supplies for home and farm use are exempt from all taxation until otherwise directed by a two-thirds vote of all the members elect to both houses of the Legislature.”

And be it further resolved, that the governor be requested to submit to the vote of the electors of the state the foregoing proposed amendment to the constitution at an election to be ordered on the first Tuesday in September, A. D. 1879, in accordance with the provisions of article 17 of the state constitution.

Approved April 7, A. D. 1879.

Takes effect from and after its passage.

No. 14.—Joint Resolution granting leave of absence to the Hon. B T Estes, judge of the fifth judicial district of the State of Texas.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Hon. B. T. Estes, judge of the fifth judicial district, is hereby granted leave of absence from the State of Texas for a period of thirty days, between the first day of June, A. D. 1879, and the first day of September, A. D. 1879.

Sec. 2. That in view of the near approach of the close of the session of this Legislature, and the object to be attained by the passage of this resolution, an imperative necessity and emergency exist for the suspension of the constitutional rule, and that this resolution shall take effect and be in force from and after its passage.

Approved April 17, A. D. 1879.

Takes effect from and after its passage.

No. 15.—Joint Resolution relating to medals for Texas veterans.

Whereas, An act approved April 21, 1874, granting pensions to Texas veterans, dedicated to said veterans a silver medal; and whereas, said act has been repealed, and there is no authority to pre-

scribe the character of said medal, of those to receive the same; therefore,

Section 1. Be it resolved, That the governor be and is hereby empowered to issue to veteran soldiers and seamen of the provisional government and Republic of Texas, who served a tour of duty prior to the annexation of Texas to the United States, a letter of authority, authorizing said veterans to procure and have engraved and embossed, each at his own expense, a medal of the same size and in all respects similar to the medal prepared by Colonel John Forbes, commissary general of the army of independence of Texas republic, and one of the veterans under the provisions of said act of 1874, and in accordance with instructions from his excellency governor Richard Coke; the said medal to be authorized as herein proposed is described as follows, to wit: Circular in shape, one and three-fourths of an inch in diameter; two ounces in weight; having upon its face or obverse side an embossed gilt star of five points, encircled by two embossed gilt branches, and the word "Texas" so engraved as to have one letter thereof on each of the five spaces between the said five points; and on the back or reverse side of said medal the name, rank, company and regiment of the veteran entitled to the same.

Sec. 2. The fact that the end of the session is drawing near, and there is a large accumulation of business before each house, creates an imperative public necessity that the rule be suspended requiring this resolution to be read on three several days, and it is so suspended.

Approved April 17, A. D. 1879.

Takes effect ninety days after adjournment.

No. 16.—Joint Resolution granting the Hon. Gustave Cook, judge of the criminal district court of Galveston and Harris counties, thirty days leave of absence from the state.

Section 1. Be it resolved by the Legislature of the State of Texas, That a leave of absence from the state for a period of thirty days, during the year A. D. 1879, be and is hereby granted to Hon. Gustave Cook, judge of the criminal district court for Galveston and Harris counties.

Sec. 2. Whereas important matters call the Hon. Gustave Cook from our state during the year A. D. 1879, and as the end of this session of the Legislature is near at hand, therefore an emergency exists and an imperative public necessity demands that the constitutional rule requiring a bill to be read on three several days be suspended, and that this resolution take effect and be in force from and after its passage.

Approved April 21, A. D. 1879.

Takes effect ninety days after adjournment.

No. 17.—Joint Resolution granting leave of absence from the state for one month to Hon. W. H. Burkhart, judge of the eighteenth judicial district.

Whereas, the Hon. William H. Burkhart, judge of the eighteenth judicial district of this state, desires leave of absence from the state on business connected with the education of his children, for the period of one month, at such time as he may choose between this time and the

assembling of the Seventeenth Legislature; and, whereas, the near approach of the adjournment of this Legislature creates an imperative public necessity that the rules be suspended requiring the reading of bills on three several days; therefore be it

Resolved by the Legislature of the State of Texas, That the Hon. William H. Burkhart, judge of the eighteenth judicial district of Texas, be and he is hereby granted leave to be absent from the state for the period of one month at such time between this time and the assembling of the Seventeenth Legislature as he may choose.

Approved April 21, A. D. 1879.

Takes effect ninety days after adjournment.

No. 18.—Joint Resolution granting leave of absence to W. B. Wall, county judge of Houston county.

Section 1. Be it resolved by the Legislature of the State of Texas, That W. B. Wall, county judge of Houston county, be and is hereby granted leave of absence from the state for the period of sixty (60) days at any time between the first day of July, 1879, and the first day of September, 1880.

Sec. 2. The late hour of the session and the necessity for granting the leave at once causes an imperative public necessity for suspending the rules, and that this act take effect at once, and it is further enacted, that the rules be suspended and that this resolution take effect from and after its passage.

Approved April 26, A. D. 1879.

Takes effect from and after its passage.

No. 19.—Joint Resolution authorizing the appointment of a committee to sit during the vacation of the Legislature to continue the investigation of land forgeries, and prescribing their powers and duties.

Section 1. Be it resolved by the Legislature of the State of Texas, That a joint committee consisting of three members, one from the Senate and two from the House of Representatives, be appointed by the president of the senate and speaker of the house to continue the investigation of forgeries and frauds affecting land titles and claims to land and land certificates; and said committee shall be authorized to sit during the vacation of the Legislature, at the seat of government, and at such other places in this state as said committee deem proper to advance and conserve the public interests. Said committee shall have power to administer oaths, to send for persons and papers, and to compel the attendance of witnesses, and the production of papers; and shall be authorized to employ the services of a stenographic reporter to take the testimony of witnesses, who shall be the clerk of said committee, and the pay of such clerk shall be limited to five dollars per day.

Be it further resolved, That the per diem of the members of said committee, and allowances for personal expenses of every kind incurred while engaged in the performance of the duties hereby required, shall not exceed five dollars per day for each member thereof; and the state

shall supply said committee with a room or rooms necessary for the transaction of business, and also with light, stationery and other requisite articles.

Be it further resolved, That the committee shall select a chairman to preside over them while in session, who shall have authority to conduct the order of business and preserve order, and to issue process for the attendance of witnesses and the production of papers; and the chairman shall approve all accounts for per diem and other legitimate expenses to be attested by the clerk and the same shall be paid by the treasurer upon the warrant of the comptroller out of the contingent fund of this Legislature; provided, said committee shall not sit longer than three months.

Be it further resolved, That the testimony taken by said committee, together with that already taken by the present committee, shall be filed in the office of the attorney general, his assistants or any attorney representing the state in matters connected with land forgeries and frauds, and that an abstract of all land titles affected by such forgeries, be prepared by said committee in alphabetical order, with reference to the different counties in the state, and that the same be filed with the commissioner of the general land office.

Whereas, the present session of the Legislature is near its adjournment, therefore an imperative public necessity exists which authorizes a suspension of the rule requiring this to be read on three several days, and it is therefore suspended: and an emergency exists that this resolution take effect and be in force from and after its passage, and it is so enacted.

Approved April 26, A. D. 1879.

Takes effect ninety days after adjournment.

No. 20.—Joint Resolution prescribing the mode and manner of submitting constitutional amendments to the vote of the people.

Section 1. Be it resolved, That the governor shall issue his proclamation submitting all constitutional amendments passed at this session of the Legislature to a vote of the qualified voters of the state, at an election to be held throughout the state on the first Tuesday in September, 1879, and cause to be published, once a week for four weeks, at least three months prior to said election, the said proposed amendments in one weekly newspaper of each county in the state in which a newspaper may be published, and he shall direct said election to be held in accordance with the law regulating general elections. Upon receipt of the proclamation of the governor the county judge shall proceed to issue his writs of election appointing judges of election in accordance with the election law. Each amendment proposed shall be voted upon separately, and the proclamation shall prescribe the words to be written or printed upon the tickets: "For or against each amendment." Immediately after the election the officers of each precinct shall forward to the county judge of their county a duplicate return showing the number of votes cast for or against the amendment; and on the tenth day thereafter the county judge shall open and count said returns, and forthwith forward to the secretary of state in a sealed package a tabulated statement thereof, showing the total number of votes cast in the county for or against the amendment, and on the fortieth day after said election the secretary of state shall, in

the presence of the governor and attorney general, open and count said returns, and if it shall appear from the returns that a majority of the votes were cast for said amendment, it shall be the duty of the governor, on the following day, to issue his proclamation setting forth the fact that said amendments have received a majority of the votes cast at said election, and shall proclaim that said amendments have become and are a part of the state constitution.

Sec. 2. The fact that amendments to the constitution have been submitted by this Legislature to a vote of the people, and the late hour of the session, creates an imperative necessity that the rule requiring this resolution [to] be read on three several days be suspended, and it is so ordered, and an emergency requiring that this resolution go into effect at once, and it is therefore enacted that this resolution take effect and be in force from and after its passage.

Approved April 26, A. D. 1879.

Takes effect from and after its passage.

THE STATE OF TEXAS, }
DEPARTMENT OF STATE. }

I, John D. Templeton, secretary of state of the State of Texas, do hereby certify that I have compared the foregoing laws and joint resolutions passed by the Sixteenth Legislature, with the enrolled bills now on file in this department, and that they are true copies thereof. I further certify that the Sixteenth Legislature of the State of Texas, convened at the city of Austin, on the fourteenth day of January, A. D. 1879, and adjourned on the twenty-fourth day of April, A. D. 1879.

In testimony whereof I hereto sign my name and affix the
[L. s.] seal of the State of Texas, at the city of Austin, on this the
twelfth day of June, A. D. 1879.

JOHN D. TEMPLETON,
Secretary of State.

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